

joining of transferor and transferee of stock in case of suit, and declaring an emergency."

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

FOURTEENTH DAY.

(Friday, May 10, 1929.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and the following members were present:

Mr. Speaker.	Jenkins.
Acker.	Johnson
Ackerman.	of Dimmit.
Adkins.	Johnson of Scurry.
Albritton.	Jones.
Anderson.	Justiss.
Baker.	Keeton.
Barnett.	Keller.
Bateman.	Kemble.
Beck.	Kennedy.
Bounds.	Kincaid.
Bradley.	King.
Brice.	Kinnear.
Carpenter.	Land.
Chastain.	Lee.
Coltrin.	Lemens.
Conway.	Long of Houston.
Cox of Navarro.	Long of Wichita.
Cox of Lamar.	Loy.
Cox of Limestone.	Mankin.
Davis.	Marks.
Dunlap.	Martin.
Duvall.	Mauritz.
Enderby.	Maynard.
Ewing.	McCombs.
Eickenroht.	McGill.
Finn.	McKean.
Finlay.	Mehl.
Forbes.	Metcalfe.
Fuchs.	Minor.
Gates.	Montgomery.
Gerron.	Moore.
Gilbert.	Morse.
Giles.	Mosely.
Graves	Mullally.
of Williamson.	Murphy.
Hardy.	Negley.
Harding.	Nicholson.
Harman.	Olsen.
Harper.	Palmer.
Harrison.	Patterson.
Heaton.	Pavlica.
Hefley.	Petsch.
Hines.	Pool.
Hogg.	Pope of Jones.
Holder.	Pope of Nueces.
Hopkins.	Prendergast.
Hornaday.	Purl.
Hubbard.	Quinn.

Ray.	Thompson.
Reader.	Thurmond.
Reid.	Tillotson.
Renfro.	Turner.
Richardson.	Van Zandt.
Rountree.	Veatch.
Sanders.	Waddell.
Savage.	Wallace.
Shaver.	Walters.
Shelton.	Warwick.
Sherrill.	Webb.
Shipman.	Westbrook.
Simmons.	White.
Sinks.	Williams
Smith.	of Sabine.
Snelgrove.	Williams
Speck.	of Travis.
Stevenson.	Woodall.
Storey.	Woodruff.
Strong.	Young.
Tarwater.	

Absent.

Baldwin.	Bond.
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Absent—Excused.

Avis.	McDonald.
Brooks.	O'Neill.
DeWolfe.	Rogers.
Graves of Erath.	Stephens.
Johnson of Smith.	Wiggs.
Kayton.	Williams
Kenyon.	of Hardin.

A quorum was announced present.

Prayer was offered by Rev. J. C. Mitchell, Chaplain.

LEAVES OF ABSENCE GRANTED.

The following member was granted leave of absence on account of important business:

Mr. Wiggs for today, on motion of Mr. Kincaid.

Mr. Stephens was granted leave of absence for today on account of illness, on motion of Mr. Metcalfe.

HOUSE BILLS ON FIRST READING.

The following House bills, introduced today, were laid before the House, read severally first time, and referred to the appropriate committees, as follows:

By Mr. Gates:

H. B. No. 206, A bill to be entitled "An Act levying a State occupation tax on every person, firm, partnership, company, corporation, association, receiver, common law trust, those operating under a declaration by trust, or other concern, selling at wholesale in intrastate commerce in this State any

product commonly known as malt syrup or malt syrup compounds or any syrup or syrup compound containing caffeine; defining 'wholesale sales' so as to include sales in intrastate commerce to the retailer; defining 'wholesaler' so as to include transactions where the Texas dealer, compounder, manufacturer, blender, or preparer, markets such malt syrup or malt syrup compounds and syrups or syrup compounds containing caffeine, etc., and declaring an emergency."

Referred to Committee on Revenue and Taxation.

By Mr. Johnson of Dimmit, Mr. Montgomery, Mr. Thurmond, Mr. McCombs, Mr. Morse, Mr. Tillotson, Mr. Pope of Nueces, Mr. Graves of Williamson and Mr. Petsch:

H. B. No. 207, A bill to be entitled "An Act defining an emigrant agent, and providing a license fee therefor, and bond necessary to be given, and providing penalties for a violation of this act, or making false statements in connection therewith, and creating an emergency."

Referred to the Committee on Labor.

By Mr. Johnson of Dimmit, Mr. Mulally, Mr. Keller, Mr. McCombs, Mr. Stevenson, Mr. Thurmond, Mr. Williams of Travis, Mr. Hopkins, Mr. Petsch and Mr. Kemble:

H. B. No. 208, A bill to be entitled "An Act to amend Title 55, of the Revised Civil Statutes of the State of Texas, 1925, by adding thereto Article 3769a; providing that in the trial of any civil suit or proceeding in any justice court, county court or district court of this State either the plaintiff or the defendant shall have the right to call as a witness the adverse party or parties and further providing that the answers of such adverse party as a witness shall not deprive the other party of the right to introduce other evidence or impeach the witness or the witness' testimony and further providing that in the examination of such adverse party as a witness, the questions asked may be leading."

Referred to Judiciary Committee.

By Mr. Hopkins:

H. B. No. 209, A bill to be entitled "An Act renewing and extending Oil and Gas Permit No. 8845 issued by the Commissioner of the General Land Office on the 6th day of October, 1924, and Oil and Gas Permit No. 8861, issued by the Commissioner of the General

Land Office on the 6th day of October, 1924, covering University lands in Pecos county, Texas, for an additional period of three years from and after the present respective dates of expiration of said permits, and declaring an emergency."

Referred to Committee on Public Lands and Buildings.

By Mr. Purl and Mr. McCombs:

H. B. No. 210, A bill to be entitled "An Act granting to and recognizing, ratifying and confirming authority of cities having a population of more than one hundred fifty thousand and less than one hundred sixty thousand at the time of taking Federal census of 1920, and operating under provision of the Home Rule Act, the power to provide for annexing additional territory according to such provisions as are contained in the charter of such city; providing that the annexed territory may include one or more fresh water supply districts, or cities and towns of less than five thousand people; prescribing the duties of the governing boards of the city annexing such territory in reference thereto; providing for the assumption by the city of the bonded indebtedness of such district or districts and the legal indebtedness of incorporated cities or towns annexed; providing for the abolition of the corporate existence of such district or districts, or cities and towns annexed, and declaring an emergency."

Referred to Committee on Municipal and Private Corporations.

By Mr. Gilbert:

H. B. No. 211, A bill to be entitled "An Act authorizing the commissioners court of any county in this State having a population of not less than 11,800 and not more than 12,000, according to the last preceding Federal census, to pay a bounty on wolves, wildcats and other predatory animals within said counties, and providing for the levy of taxes at a rate not to exceed one-fourth of one mill on the total assessed valuation of the county for the purpose of creating a fund out of which to pay said bounties, and declaring an emergency."

Referred to Committee on Counties.

By Mr. Beck, Mr. Tillotson and Mr. Hubbard:

H. B. No. 212, A bill to be entitled "An Act to provide that any person, firm or corporation desiring to operate over any highway or street in this State extra-heavy equipment for the transpor-

tation of heavy articles such as cannot reasonably be dismantled, where the gross weight and width exceed the limits allowed by law to be transported, may do so by filing a bond with the State Highway Commission, and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

By Mr. Jenkins:

H. B. No. 213, A bill to be entitled "An Act to prescribe what shall be contained in decisions by Courts of Civil Appeals in this State, and providing for an emergency."

Referred to Judiciary Committee.

By Mr. Jenkins:

H. B. No. 214, A bill to be entitled "An Act to provide for writs of error to the Supreme Court of Texas from any judgment rendered by any Court of Civil Appeals of this State; to require a motion for rehearing in such court as prerequisite to such writ of error; to provide that such motion for a rehearing shall constitute plaintiff in error's assignment of error, etc.; and repealing all laws in conflict with the provisions of this act."

Referred to Judiciary Committee.

By Mr. White:

H. B. No. 215, A bill to be entitled "An Act creating a more efficient road system for Hutchinson county, Texas; providing that the county commissioners shall be road commissioners of their respective precincts; providing that such commissioners shall have charge of the road teams, tools, machinery and appliances of said county under the direction of the commissioners court; providing for the laying out, establishment and construction of roads, bridges and culverts, and for the repair and maintenance thereof; providing that the commissioners court shall co-operate with the State Highway Department in the establishment, construction and maintenance of roads, bridges and culverts to be paid for partly by the county and partly by the State or Federal government; authorizing the commissioners court of Hopkins county to issue bonds of said county for the purpose of funding or refunding indebtedness incurred for road and bridge purposes, and to levy a tax in payment thereof; and providing that if the validity of the indebtedness to be funded by such bonds is not questioned in any suit or proceeding within sixty days from the adoption of the order of the

commissioners court authorizing the issuance of such bonds, then such indebtedness shall be conclusively presumed to be valid; and by adding thereto Section 4a, making it unlawful for the commissioners court of Hutchinson county to issue any warrant, etc., and declaring an emergency."

Referred to Committee on Highways and Motor Traffic.

BILLS ORDERED NOT PRINTED.

On motion of Mr. Mosely, House bill No. 188 was ordered not printed.

On motion of Mr. Murphy, House bill No. 203 was ordered not printed.

On motion of Mr. Carpenter, Senate bills Nos. 24, 25 and 26 were ordered not printed.

BILL RE-REFERRED.

Mr. Tillotson moved that House bill No. 201 be withdrawn from the Committee on Highways and Motor Traffic and referred to the Committee on Revenue and Taxation.

Mr. Holder moved to table the motion.

Yeas and nays were demanded and the motion to table was lost by the following vote:

Yeas—42.

Anderson.	Long of Houston.
Baker.	Mankin.
Beck.	Martin.
Bounds.	McCombs.
Bradley.	Morse.
Conway.	Patterson.
Cox of Lamar.	Pope of Nueces.
Davis.	Prendergast.
Eickenroht.	Purl.
Forbes.	Quinn.
Fuchs.	Rountree.
Gates.	Savage.
Gerron.	Sinks.
Hardy.	Speck.
Harding.	Van Zandt.
Heaton.	Waddell.
Holder.	Warwick.
Jenkins.	Webb.
Keller.	Williams
Kemble.	of Sabine.
Kennedy.	Williams
Kinnear.	of Travis.

Nays—67.

Mr. Speaker.	Carpenter.
Acker.	Chastain.
Ackerman.	Coltrin.
Adkins.	Cox of Limestone.
Albritton.	Duvall.
Bateman.	Enderby.
Brice.	Ewing.

Finlay.	Petsch.	Albritton.	Mullally.
Gilbert.	Pope of Jones.	Baker.	Murphy.
Giles.	Ray.	Brice.	Negley.
Graves	Reader.	Carpenter.	Nicholson.
of Williamson.	Reid.	Chastain.	Olsen.
Harrison.	Renfro.	Coltrin.	Pavlica.
Hornaday.	Richardson.	Cox of Limestone.	Petsch.
Hubbard.	Sanders.	Duvall.	Pope of Jones.
Johnson	Shaver.	Enderby.	Ray.
of Dimmit.	Shelton.	Ewing.	Reader.
Johnson of Scurry.	Sherrill.	Finlay.	Reid.
Jones.	Shipman.	Fuchs.	Renfro.
Justiss.	Simmons.	Giles.	Richardson.
Keeton.	Snelgrove.	Graves	Sanders.
Kincaid.	Storey.	of Williamson.	Shaver.
Land.	Strong.	Harding.	Shelton.
Lee.	Tarwater.	Harrison.	Sherrill.
Marks.	Thompson.	Heaton.	Shipman.
Maynard.	Tillotson.	Hefley.	Simmons.
McGill.	Turner.	Hornaday.	Snelgrove.
Montgomery.	Veatch.	Hubbard.	Speck.
Mosely.	Wallace.	Johnson	Strong.
Mullally.	Walters.	of Dimmit.	Tarwater.
Negley.	Westbrook.	Justiss.	Thompson.
Nicholson.	White.	Keeton.	Thurmond.
Olsen.	Woodall.	Kincaid.	Tillotson.
Pavlica.	Woodruff.	Land.	Turner.

Present—Not Voting.

Moore. Thurmond.

Absent.

Baldwin.	Lemens.
Barnett.	Long of Wichita.
Bond.	Loy.
Cox of Navarro.	Mauritz.
Dunlap.	McKean.
Finn.	Mehl.
Harman.	Metcalfe.
Harper.	Minor.
Hefley.	Murphy.
Hines.	Palmer.
Hogg.	Pool.
Hopkins.	Smith.
Kayton.	Stevenson.
King.	Young.

Absent—Excused.

Avis.	McDonald.
Brooks.	O'Neill.
DeWolfe.	Rogers.
Graves of Erath.	Stephens.
Johnson of Smith.	Wiggs.
Kenyon.	Williams of Hardin.

Question then recurring on the motion to re-refer the bill, yeas and nays were demanded.

The motion prevailed by the following vote:

Yeas—69.

Mr. Speaker.	Ackerman.
Acker.	Adkins.

Albritton.	Mullally.
Baker.	Murphy.
Brice.	Negley.
Carpenter.	Nicholson.
Chastain.	Olsen.
Coltrin.	Pavlica.
Cox of Limestone.	Petsch.
Duvall.	Pope of Jones.
Enderby.	Ray.
Ewing.	Reader.
Finlay.	Reid.
Fuchs.	Renfro.
Giles.	Richardson.
Graves	Sanders.
of Williamson.	Shaver.
Harding.	Shelton.
Harrison.	Sherrill.
Heaton.	Shipman.
Hefley.	Simmons.
Hornaday.	Snelgrove.
Hubbard.	Speck.
Johnson	Strong.
of Dimmit.	Tarwater.
Justiss.	Thompson.
Keeton.	Thurmond.
Kincaid.	Tillotson.
Land.	Turner.
Lee.	Van Zandt.
Marks.	Veatch.
McGill.	Wallace.
McKean.	Walters.
Montgomery.	Westbrook.
Moore.	White.
Mosely.	Woodruff.

Nays—35.

Anderson.	Mankin.
Beck.	Martin.
Bounds.	McCombs.
Bradley.	Metcalfe.
Conway.	Morse.
Davis.	Patterson.
Eickenroht.	Pope of Nueces.
Forbes.	Quinn.
Gates.	Rountree.
Gerron.	Savage.
Gilbert.	Sinks.
Hardy.	Storey.
Holder.	Waddell.
Jenkins.	Warwick.
Johnson of Scurry.	Webb.
Keller.	Williams
Kemble.	of Sabine.
Kennedy.	Williams
Kinnear.	of Travis.
Loy.	Woodall.

Absent.

Baldwin.	Harman.
Barnett.	Harper.
Bateman.	Hines.
Bond.	Hogg.
Cox of Navarro.	Hopkins.
Cox of Lamar.	Jones.
Dunlap.	Kayton.
Finn.	King.

Lemens.	Palmer.
Long of Houston.	Pool.
Long of Wichita.	Prendergast.
Mauritz.	Purl.
Maynard.	Smith.
Mehl.	Stevenson.
Minor.	Young.

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Wiggs.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

TO PROVIDE FOR CEILING FANS.

Mr. Purl offered the following resolution:

Whereas, The Board of Control estimates that ceiling fans similar to those now installed in the State Senate Chamber can be installed in the House of Representatives for a cost not to exceed \$75 each; therefore, be it

Resolved, That the Board of Control be authorized to purchase and have installed not more than eight ceiling fans, and that the cost of same be paid out of the contingent expense of the House, and further, that the fans now in use be disposed of or used in committee rooms as the Speaker may direct.

The resolution was read second time.

Mr. Keller moved that the resolution be referred to the Committee on Military Affairs.

Mr. Barnett moved that the resolution be referred to the Committee on Contingent Expenses.

Question recurring on the motion of Mr. Barnett, it prevailed.

HOUSE BILL NO. 20 ON SECOND READING.

The Speaker laid before the House, on its second reading and passage to engrossment,

H. B. No. 20, A bill to be entitled "An Act to provide for a system of pardons and paroles; to create a board to investigate and recommend to the Governor prisoners who should be pardoned or released on parole or on furlough; to provide for the supervision of prisoners released on parole; and making an appropriation to pay the salaries and defray the expenses of the board and its employees; enacting other things incidental to the subject of the act, and declaring an emergency."

The bill was read second time.

Mr. Wallace offered the following (committee) amendment to the bill:

Strike out all below the enacting clause and insert in lieu thereof the following:

Article 6203 of the Revised Civil Statutes of Texas as revised in 1925 shall hereafter read as follows:

Section 1. Board of Pardons and Paroles. There is hereby created a board to be known and designated under the official title of the Board of Pardons and Paroles hereinafter referred to as the Board. The Board consisting of three qualified voters of this State of high character and broad understanding who are interested in the reformation and rehabilitation of prisoners and who shall perform such duties as the Governor may direct and as herein directed consistent with the Constitution and as the Governor may deem necessary in disposing of all applications for pardons, paroles and furloughs. Said Board shall be appointed by the Governor, one to serve two years, one to serve four years, and one to serve six years, and at the expiration of the term for which a member of said Board has been appointed, his successor shall be appointed. Said Board shall be given a room in the Capitol, properly furnished with necessary furniture and file cases, and provided with such stationery and other appliances which may be necessary for the speedy and proper dispatch of the business for which it is organized, as well as herein directed to perform. Said Board shall make a thorough examination of each applicant which the Governor may refer to it and report its recommendations thereon to him. It shall spend such time each year as may be necessary in personally looking into the condition of such convicts as it may desire, or as may be designated by either the Governor, the Prison Board, Manager of the Prison System or its physician, giving special attention to the cases of those of long service who may be so designated and who have no means of getting a proper petition before the Governor, to the end that the Board may have before it such data as will enable it to judge the condition of such convicts. All cases shall be taken up, considered and voted upon by said Board in the regular order of reference, by the Governor, except when it appears to said Board there is extraordinary emergency in any case. Said Board shall be required to keep a record in which shall be entered every case sent it by the Governor, giving the docket number of the convict, his name, when

and where convicted, his sentence, his offense, when received from the Governor, the action taken by said Board, and the date of said action. The salaries of the members of said Board shall be three thousand dollars per annum payable in twelve equal installments.

Sec. 2. Organization of Board. Supervisor of Paroles. The Governor shall designate one member of this Board as chairman, who shall be the presiding officer of said Board, any other member thereof may act as such chairman in the chairman's absence. The Board shall designate one of its members who shall act as supervisor of paroles whose duty it shall be to have assembled a complete record of all prisoners received by the Prison System who may be, or may become eligible to parole under the provisions of this law, as hereinafter provided. It shall also be his duty to secure employment, if possible, for paroled prisoners, and to supervise and keep a record of them.

Sec. 3. Action on Application for Parole. When an application for pardon is referred to the Board by the Governor, the Secretary of the Board shall immediately, by registered mail, notify the prosecuting officer, or officers, and the sheriff of the county in which the applicant was convicted, or in which the alleged crime was committed, or both, of the filing of such application and that they or either of them, or any interested party may within thirty days from the receipt of such notice, present in person or in writing to said Board their objection, if any, to the granting of such pardon.

Sec. 4. Duties of Board. It shall also be the duty of the supervisor of paroles to ascertain and report to the Governor what prisoners serving in the State Penitentiary may profitably, both to themselves and to society, be released on parole, or furlough, and when and under what conditions. The supervisor of paroles shall also be charged with the duty of supervising all prisoners released on parole from the prisons of the State, of making such investigations as may be necessary in connection therewith, of determining whether violation of parole conditions exists in specific cases and of deciding the action to be taken with reference thereto, and of aiding paroled prisoners to secure employment. It shall also be his duty personally to study the prisoners confined in the prisons of the State eligible for parole, so as to determine their ultimate fitness to be paroled.

Sec. 5. Pre-Parole Records. As soon as practicable after each prisoner eligible

for parole, under this act is received in the prisons of the State, it shall be the duty of the parole supervisor to cause to be obtained and filed, information as complete as may be obtainable at that time with regard to each such prisoner. Such information shall include a complete statement of the crime for which he is then sentenced, the circumstances of such crime, the nature of his sentence, the court in which he was sentenced, the name of the judge and district attorney sentencing and trying such prisoner and copies of such probation reports as may have been made, as well as reports as to the prisoner's social, physical, mental and psychiatric condition and history. It shall be the duty of any district judge, district attorney, county attorney, clerk of the court and of all probation officers and other public officials of this State having information with reference to any prisoners eligible to parole, to send such information as may be in their possession or under their control to the Board upon request of the Board or any member or employee thereof. The Board shall also at that time obtain and file a copy of the complete criminal record of such prisoner, including any juvenile court record, that may exist.

Sec. 6. Who May Be Paroled. Every person sentenced to an indeterminate sentence and now confined in the penitentiary, or hereafter sentenced thereto on an indeterminate sentence, who has never before been convicted of a crime punishable by imprisonment in a State prison, in this or any other State or nation, when he shall have served a period of time equal to the minimum sentence imposed upon him for the crime of which he was convicted, shall be deemed eligible for parole under the provisions of this act. In addition, every person now confined in the penitentiary on a definite sentence, or who shall hereafter be sentenced thereto for a definite term, and who has never before been convicted of a crime punishable by imprisonment in the State prison in this or any other State or nation, shall be deemed eligible for parole when he shall have served one-third of the term for which he was sentenced. But in neither of the foregoing cases shall such person be recommended for release on parole under the terms of this act until he shall have served such minimum period of time, nor until he shall have served at least one year of his sentence.

Sec. 7. Reasons for Release. No prisoner shall be recommended for release

on parole merely as a reward for good conduct or efficient performance of duties assigned in prison, but only if the Board of Parole is of opinion that there is reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law, and that his release is not incompatible with the welfare of society. If the Board shall so determine, it shall recommend that such prisoner shall be allowed to go upon parole outside of prison walls and inclosure upon such terms and conditions as the Board shall prescribe, but to remain while thus on parole in the legal custody of the prison until the expiration of the maximum term specified in his sentence.

Sec. 8. Method of Release. The consideration by said Board of the release of a prisoner on parole shall not be upon the application of the prisoner, but solely upon the initiative of the Board or a request of the Governor of this State. No application for release on parole made by a prisoner or in his behalf shall be entertained by the Board. At the last meeting of the Board prior to the expiration of the minimum time of each prisoner eligible for parole, it shall be the duty of the Board to cause to be brought before it all information with regard to such prisoner referred to in Section 5. In addition, it shall have before it a report from the warden or manager of each prison or prison farm on which such prisoner has been confined as to the prisoner's conduct in prison, with a detailed statement as to all infractions of prison rules and discipline, all punishments meted out to such prisoner and the circumstances connected therewith, as well as a report from each such official as to the extent to which such prisoner has responded to the efforts made in prison to improve his mental and moral condition. Such Board shall also have before it the report of such physical, mental and psychiatric examinations as have been made of such prisoner. No prisoner shall be recommended for release on parole except by a majority vote of the members of the Board nor unless the Board is satisfied that he will be suitably employed in self-sustaining employment if so released.

Sec. 9. Conditions of Parole. When a prisoner is released on parole the Board shall specify in writing the conditions of his parole, and a copy of such conditions shall be given to the parolee. A violation of such conditions may render the prisoner liable to arrest and re-imprisonment for the full term of his

sentence. The Board shall adopt general rules with regard to conditions of parole and their violation and may make special rules to govern particular cases, together with such other rules and regulations as may be necessary to carry out the purposes of the act and the powers hereby conferred. Such rules, both general and special, may include, among other things, a requirement that the parolee shall not leave the State without the consent of the Board, that he shall contribute to the support of his dependents, that he shall make restitution for his crime, that he shall abandon evil associates, and ways, that he shall carry out the instructions of his parole officer and in general to comport himself as such officers shall determine.

Sec. 10. Upon the discharge of any prisoner upon parole, either under the provisions of this act, or through the exercise by the Governor of executive clemency, independent of this act, such person so paroled, shall be furnished by the proper officers of the State Prison Board with such clothing as is usually furnished to prisoners upon discharge from prison in this State, together with a railroad non-transferable ticket from the place of his discharge to the place of his conviction and sentence, and in addition thereto the sum of \$5.00.

Sec. 11. Violation of Parole. If the parole officer having charge of a paroled prisoner, or any member of the Board, shall have reasonable cause to believe that such prisoner has lapsed, or is probably about to lapse, into criminal ways or company, or has violated the conditions of his parole, such parole officer or any member of the Board shall report such fact to the Governor, who thereupon shall issue a warrant for the re-taking of such prisoner and his return to the prison designated in such warrant.

Sec. 12. Retaking of a Violator of Parole. Any officer authorized to serve criminal process, or any peace officer to whom such warrant shall be delivered, is authorized and required to execute such warrant by taking such prisoner on parole, there to be held to await the action of the Board. Such officer, other than an officer of the prison or parole officer, shall be entitled to receive the same fees therefor as upon the execution of a warrant of arrest at the place where said prisoner shall be re-taken, and as for transporting a convict from the place of arrest to the prison, in case such officer also transports said prisoner to the prison. Such fees of the officer, other than a prison officer or a parole

officer, and the expenses of a parole or prison officer, in executing such warrants, shall be paid by the warden or manager of the prison in which prisoner has been confined, out of the moneys standing to the credit of such paroled prisoner, if any, or sufficient therefor, and otherwise out of the funds of the prison, in which case such expense shall be charged against and deducted from any moneys which may stand to the credit of such prisoner in the future.

Sec. 13. Board to Act on Violations of Parole. Whenever there is reasonable cause to believe that a prisoner who has been paroled has violated his parole, the Board shall declare such prisoner to be delinquent and time owed shall date from such delinquency. The warden or manager of the prison shall promptly notify the Board of the return of a paroled prisoner charged with violation of his parole. Thereupon such Board shall, as soon as practicable, hold a hearing and consider the case of such parole violator. The Board shall, within a reasonable time, act upon such charges and may, if it sees fit, require such prisoner to serve out in prison the balance of the maximum term for which he was originally sentenced, calculated from the date of delinquency.

Sec. 14. Felony Committed While on Parole. If any prisoner be convicted of a felony committed while on parole, he shall, in addition to the sentence which may be imposed for such felony, and before returning to serve such sentence, be compelled to serve in State's prison the portion remaining of the maximum term of the sentence on which he was released on parole from the time of such release on parole to the expiration of such maximum. No such person shall be eligible for any further parole at any time.

Sec. 15. No Discharge From Parole. No person released on parole shall be discharged from parole prior to the expiration of the full maximum term for which he was sentenced. The Board, however, may relieve a prisoner on parole from making further reports and may permit such prisoner to leave the State or county if satisfied that this is for the best interests of society.

Sec. 16. Records. The Board shall cause complete records to be kept of every prisoner released on parole. Such records shall contain the finger prints, aliases and photograph of each such prisoner as far as available and the other information referred to in this act, as well as all reports of parole officers with relation to such prisoner. The

Board may make rules as to the privacy of such records and their use by others than the Board and its staff.

Sec. 17. Co-operation: Right of Access to Prisons. The warden or manager of each prison and all officers and employes thereof, and all other public officials and employes, shall at all times co-operate with the Board and shall furnish to such Board, its officers and employes, such information as may be necessary to enable it to perform its functions, and such wardens and other employes shall at all times give the members of such Board, its officers and employes, free access to all prisoners confined in the prisons of the State.

Sec. 18. Long-Term Sentences. On and after the date this act takes effect, all prisoners who shall receive a sentence in excess of twenty-five years, including sentences of natural life, shall, at the expiration of nineteen calendar years' servitude, with a clear prison record, be eligible to a parole under the provisions of this act.

Sec. 19. Credit for Time Earned and Overtime. In computing the time of service of prisoners under this act, there shall be taken into consideration such commutation of time which may have been earned by such prisoners for good behavior for overtime service under the laws of this State.

Sec. 20. Executive Clemency. The provisions of this act shall not be construed to prevent or limit the exercise by the Governor of this State of powers of executive clemency vested in him by the Constitution of this State, and the Board of Parole shall have no power to grant the right of parole to any prisoner except by and through the Governor of this State in the exercise of such power of executive clemency.

Sec. 21. The members of the Board of Pardons now serving when this act takes effect shall constitute two members of the Board of Pardons and Paroles and shall continue in office as such for the full term for which they have been heretofore appointed.

Sec. 22. All laws and parts of laws in conflict herewith are hereby repealed. It is expressly provided, however, that if any portion of this act shall be held unconstitutional it shall not affect any other portion hereof or provision herein.

Sec. 23. Emergency Clause. The fact that there is now no law providing an adequate system of paroles and pardons in this State creates an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house

be, and the same is hereby, suspended and that this act shall take effect and be in force from and after its passage, and it is so enacted.

(Mr. Hardy in the chair.)

Mr. Keller offered the following amendment to the (committee) amendment:

Amend committee amendment to House bill No. 20 by adding a new section after Section 19, page 7, to be known as Section 19a, and to read as follows:

"Provided, however, that extra time for good conduct shall not be included in calculating years or terms of years in this law."

Mr. Duvall moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—70.

Albritton.	Metcalfe.
Anderson.	Moore.
Baker.	Mosely.
Bateman.	Murphy.
Beck.	Nicholson.
Bounds.	Olsen.
Bradley.	Palmer.
Chastain.	Patterson.
Conway.	Pavlica.
Cox of Lamar.	Petsch.
Duvall.	Pool.
Ewing.	Pope of Jones.
Finn.	Purl.
Finlay.	Quinn.
Gilbert.	Reader.
Giles.	Richardson.
Graves	Sanders.
of Williamson.	Savage.
Harman.	Shaver.
Harrison.	Shipman.
Heaton.	Sinks.
Hornaday.	Speck.
Hubbard.	Storey.
Jenkins.	Strong.
Justiss.	Tarwater.
Keeton.	Thurmond.
King.	Turner.
Kinnear.	Van Zandt.
Land.	Waddell.
Lee.	Wallace.
Long of Houston.	Walters.
Long of Wichita.	Warwick.
Martin.	Westbrook.
McCombs.	Williams
McGill.	of Travis.
Mehl.	Young.

Nays—30.

Ackerman.	Fuchs.
Brice.	Gerron.
Enderby.	Hardy.
Forbes.	Harding.

Hefley.	Pope of Nueces.
Hogg.	Ray.
Johnson of Scurry.	Renfro.
Keller.	Rountree.
Kemble.	Sherrill.
Kennedy.	Snelgrove.
Kincaid.	Thompson.
Lemens.	Tillotson.
Mankin.	Veatch.
McKean.	Williams
Mullally.	of Sabine.
Negley.	

Present—Not Voting.

Cox of Limestone.	Prendergast.
Marks.	Webb.

Absent.

Acker.	Johnson
Adkins.	of Dimmit.
Baldwin.	Kayton.
Barnett.	Loy.
Bond.	Mauritz.
Carpenter.	Maynard.
Coltrin.	Minor.
Cox of Navarro.	Montgomery.
Davis.	Morse.
Dunlap.	Reid.
Eickenroht.	Shelton.
Gates.	Simmons.
Harper.	Smith.
Hines.	Stevenson.
Holder.	White.
Hopkins.	Woodall.
Jones.	Woodruff.

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Wiggs.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

Mr. Westbrook offered the following amendment to the amendment:

Amend Section 6 of committee amendment No. 1 to House bill No. 20 by inserting at the end of said section the following: "provided, that all persons convicted of political crimes shall be eligible for parole immediately upon being sentenced."

"For the purposes of this act, political crimes are hereby defined as those not involving moral turpitude, such as the Dean Act."

Mr. Graves of Williamson moved to table the amendment.

Yeas and nays were demanded, and the motion to table prevailed by the following vote:

Yeas—82.

Albritton.	Long of Wichita.
Baker.	Marks.
Barnett.	Martin.
Bounds.	Mauritz.
Bradley.	McGill.
Brice.	McKean.
Chastain.	Mehl.
Coltrin.	Moore.
Conway.	Mosely.
Cox of Lamar.	Nicholson.
Cox of Limestone.	Olsen.
Duvall.	Patterson.
Enderby.	Petsch.
Ewing.	Pool.
Finn.	Pope of Jones.
Finlay.	Purl.
Forbes.	Quinn.
Gilbert.	Reader.
Graves	Reid.
of Williamson.	Richardson.
Hardy.	Sanders.
Harding.	Savage.
Harman.	Shaver.
Harrison.	Sherrill.
Heaton.	Shipman.
Hefley.	Simmons.
Hogg.	Sinks.
Holder.	Speck.
Hornaday.	Storey.
Hubbard.	Tarwater.
Jenkins.	Thurmond.
Johnson of Scurry.	Van Zandt.
Justiss.	Waddell.
Keeton.	Wallace.
Kennedy.	Walters.
Kincaid.	Warwick.
King.	Webb.
Kinnear.	White.
Land.	Williams
Lee.	of Travis.
Lemens.	Woodall.
Long of Houston.	Young.

Nays—22.

Ackerman.	Metcalfe.
Anderson.	Mullally.
Beck.	Murphy.
Fuchs.	Negley.
Gerron.	Palmer.
Hopkins.	Rountree.
Keller.	Strong.
Kemble.	Thompson.
Mankin.	Tillotson.
McCombs.	Westbrook.

Present—Not Voting.

Maynard.	Prendergast.
Pavlica.	Ray.

Absent.

Acker.	Bond.
Adkins.	Carpenter.
Baldwin.	Cox of Navarro.
Bateman.	Davis.

Dunlap.	Morse.
Eickenroht.	Pope of Nueces.
Gates.	Renfro.
Giles.	Shelton.
Harper.	Smith.
Hines.	Snelgrove.
Johnson	Stevenson.
of Dimmit.	Turner.
Jones.	Veatch.
Kayton.	Williams
Loy.	of Sabine.
Minor.	Woodruff.
Montgomery.	

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Wiggs.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

Mr. Petsch offered the following amendment to the amendment:

Amend committee amendment No. 1 to House bill No. 20 as follows: Strike out Section 18 of the amendment and substitute therefor the following:

"No prisoner having a life sentence either by virtue of an original judgment or by virtue of an executive action shall be eligible to any of the benefits of this act."

Question—Shall the amendment be adopted?

(Speaker in the chair.)

Mr. Duvall moved to table the amendment.

Yeas and nays were demanded, and the motion to table was lost by the following vote:

Yeas—40.

Albritton.	Kinnear.
Baker.	Land.
Barnett.	Lee.
Bateman.	Long of Wichita.
Bounds.	Martin.
Chastain.	McCombs.
Conway.	Metcalfe.
Duvall.	Mosely.
Finn.	Patterson.
Finlay.	Pavlica.
Gilbert.	Purl.
Graves	Richardson.
of Williamson.	Savage.
Harrison.	Shaver.
Holder.	Shipman.
Hornaday.	Speck.
Hubbard.	Storey.
Jenkins.	Wallace.
Johnson of Scurry.	Walters.
Justiss.	Williams
King.	of Travis.

Nays—60.

Mr. Speaker.	Moore.
Ackerman.	Mullally.
Beck.	Negley.
Bradley.	Nicholson.
Brice.	Olsen.
Coltrin.	Palmer.
Cox of Limestone.	Petsch.
Enderby.	Pope of Jones.
Ewing.	Pope of Nueces.
Forbes.	Quinn.
Fuchs.	Ray.
Gerron.	Reader.
Giles.	Reid.
Harding.	Rountree.
Heaton.	Shelton.
Hefley.	Sherrill.
Hogg.	Simmons.
Keeton.	Sinks.
Keller.	Snelgrove.
Kemble.	Strong.
Kennedy.	Tarwater.
Kincaid.	Thurmond.
Lemens.	Tillotson.
Long of Houston.	Turner.
Mankin.	Van Zandt.
Marks.	Veatch.
Mauritz.	Warwick.
Maynard.	Westbrook.
McGill.	Woodall.
McKean.	Young.
Montgomery.	

Present—Not Voting.

Cox of Navarro. Webb.

Absent.

Acker.	Kayton.
Adkins.	Loy.
Anderson.	Mehl.
Baldwin.	Minor.
Bond.	Morse.
Carpenter.	Murphy.
Cox of Lamar.	Pool.
Davis.	Prendergast.
Dunlap.	Renfro.
Eickenroht.	Sanders.
Gates.	Smith.
Hardy.	Stevenson.
Harman.	Thompson.
Harper.	Waddell.
Hines.	White.
Hopkins.	Williams.
Johnson	of Sabine.
of Dimmit.	Woodruff.
Jones.	

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Wiggs.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

MESSAGE FROM THE SENATE.

Senate Chamber,
Austin, Texas, May 10, 1929.Hon. W. S. Barron, Speaker of the
House of Representatives.Sir: I am directed by the Senate to
inform the House that the Senate has
passedS. B. No. 23, A bill to be entitled
"An Act amending Article 6196 of the
Revised Civil Statutes of 1925, so as to
provide for the discharge of convicts
from the penitentiary in the county in
which they were convicted, and declar-
ing an emergency."

Respectfully,

MORRIS C. HANKINS,

Assistant Secretary of the Senate.

BILL RE-REFERRED.

On motion of Mr. Wallace, Senate bill
No. 81 was withdrawn from the Com-
mittee on Appropriations and referred
to the Committee on Claims and Ac-
counts.

SENATE BILL ON FIRST READING.

The following Senate bill, received
from the Senate today, was laid before
the House, read first time, and referred
to the appropriate committee, as follows:Senate bill No. 23, to the Committee
on Penitentiaries.

RECESS.

On motion of Mr. Sanders, the House,
at 12 o'clock m., took recess to 2 o'clock
p. m. today.

AFTERNOON SESSION.

The House met at 2 o'clock p. m., and
was called to order by the Speaker.HOUSE BILL NO. 20 ON PASSAGE
TO ENGROSSMENT.The House resumed consideration of
pending business, same being House bill
No. 20, relative to creating a State Pa-
role Board, on its passage to engross-
ment, with (committee) amendment by
Mr. Wallace and amendment by Mr.
Petsch to the (committee) amend-
ment, pending.Mr. Woodall moved the previous ques-
tion on the pending amendment to the
amendment, and the main question was
ordered.Question recurring on the amendment
by Mr. Petsch, yeas and nays were de-
manded.

The amendment was lost by the following vote:

Yeas—43.

Bradley.	Negley.
Brice.	Nicholson.
Carpenter.	Palmer.
Ewing.	Pool.
Forbes.	Pope of Jones.
Gerron.	Prendergast.
Giles.	Reader.
Hardy.	Reid.
Hopkins.	Richardson.
Johnson of Scurry.	Rountree.
Keller.	Sherrill.
Kemble.	Sinks.
Kennedy.	Thurmond.
Kincaid.	Van Zandt.
Kinnear.	Waddell.
Lemens.	Walters.
Long of Houston.	Webb.
Martin.	Williams
Montgomery.	of Sabine.
Moore.	Williams
Morse.	of Travis.
Mullally.	Young.
Murphy.	

Nays—58.

Mr. Speaker.	Mauritz.
Ackerman.	Maynard.
Albritton.	McCombs.
Baker.	McGill.
Bateman.	McKean.
Beck.	Mehl.
Bounds.	Metcalfe.
Chastain.	Patterson.
Coltr.	Pavlica.
Conway.	Purl.
Cox of Lamar.	Quinn.
Duvall.	Ray.
Enderby.	Renfro.
Finlay.	Sanders.
Gilbert.	Shaver.
Graves	Shipman.
of Williamson.	Simmons.
Harman.	Snelgrove.
Harrison.	Speck.
Heaton.	Storey.
Hefley.	Strong.
Jenkins.	Tarwater.
Jones.	Tillotson.
Justiss.	Turner.
Keeton.	Veatch.
King.	Wallace.
Land.	Warwick.
Lee.	White.
Long of Wichita.	Woodall.
Marks.	

Absent.

Acker.	Bond.
Adkins.	Cox of Navarro.
Anderson.	Cox of Limestone.
Baldwin.	Davis.
Barnett.	Dunlap.

Eickenroht.	Loy.
Finn.	Mankin.
Fuchs.	Minor.
Gates.	Mosely.
Harding.	Olsen.
Harper.	Petsch.
Hines.	Pope of Nueces.
Hogg.	Savage.
Holder.	Shelton.
Hornaday.	Smith.
Hubbard.	Stevenson.
Johnson	Thompson.
of Dimmit.	Wiggs.
Kayton.	Woodruff.

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Westbrook.
Johnson of Smith.	Williams
Kenyon	of Hardin.
McDonald.	

Mr. Woodall moved to reconsider the vote by which the amendment was lost, and to table the motion to reconsider.

The motion to table prevailed.

Mr. Young moved a call of the House for the purpose of maintaining a quorum pending consideration of House bill No. 20, and the call was duly ordered.

The Speaker then directed the Door-keeper to close the main entrance to the Hall and instructed the Sergeant-at-Arms to lock all other doors leading from the Hall, and stated that no member would be permitted to leave the Hall without written permission from the Speaker.

The Sergeant-at-Arms was instructed to bring in all absent members within the city who are not ill.

Mr. Kemble offered the following amendment to the amendment:

"Provided, no person shall be recommended for parole except on the recommendation of the district judge, district attorney and sheriff of the district from which said person was convicted."

Mr. Patterson moved the previous question on the pending amendments and the bill, and the main question was ordered.

Mr. Keller raised a point of order on further consideration of the bill on the ground that it violates certain provisions of the Constitution.

The Speaker declined to rule on the point of order and stated that he would submit the matter to the House for its decision.

Question—Shall the House sustain the point of order?

The House refused to sustain the point of order by the following vote:

Yeas—43.

Acker.	McKean.
Ackerman.	Morse.
Albritton.	Mullally.
Bounds.	Negley.
Bradley.	Nicholson.
Brice.	Palmer.
Carpenter.	Pool.
Coltrin.	Reader.
Cox of Navarro.	Sherrill.
Finlay.	Simmons.
Forbes.	Sinks.
Hardy.	Snelgrove.
Hefley.	Strong.
Hines.	Thompson.
Hopkins.	Thurmond.
Johnson of Scurry.	Veatch.
Justiss.	Walters.
Keller.	Williams
Kemble.	of Sabine.
Kennedy.	Williams
Long of Houston.	of Travis.
Mankin.	Young.
Martin.	

Nays—51.

Adkins.	Long of Wichita.
Baker.	Marks.
Barnett.	Maynard.
Bateman.	McCombs.
Beck.	McGill.
Chastain.	Metcalf.
Conway.	Montgomery.
Cox of Lamar.	Moore.
Cox of Limestone.	Patterson.
Dunlap.	Pavlica.
Enderby.	Pope of Jones.
Eickenroht.	Purl.
Gilbert.	Reid.
Giles.	Renfro.
Graves	Richardson.
of Williamson.	Sanders.
Harman.	Shaver.
Harrison.	Shipman.
Heaton.	Speck.
Hornaday.	Storey.
Jenkins.	Tarwater.
Jones.	Turner.
Keeton.	Van Zandt.
Kinnear.	Waddell.
Land.	Wallace.
Lee.	Webb.
Lemens.	White.

Present—Not Voting.

Mr. Speaker.	Mehl.
Ewing.	Rountree.
Kincaid.	Warwick.
Mauritz.	

Absent.

Anderson.	Duvall.
Baldwin.	Finn.
Bond.	Fuchs.
Davis.	Gates.

Gerron.	Olsen.
Harding.	Petsch.
Harper.	Pope of Nueces.
Hogg.	Prendergast.
Holder.	Quinn.
Hubbard.	Ray.
Johnson	Savage.
of Dimmit.	Shelton.
Kayton.	Smith.
King.	Stevenson.
Loy.	Tillotson.
Minor.	Wiggs.
Mosely.	Woodall.
Murphy.	Woodruff.

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Westbrook.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

Question then recurring on the amendment by Mr. Kemble, yeas and nays were demanded.

The amendment was lost by the following vote:

Yeas—37.

Acker.	Montgomery.
Ackerman.	Morse.
Carpenter.	Mullally.
Forbes.	Negley.
Gerron.	Nicholson.
Hardy.	Palmer.
Harding.	Pool.
Hines.	Reader.
Hopkins.	Rountree.
Johnson of Scurry.	Sinks.
Justiss.	Snelgrove.
Keller.	Thompson.
Kemble.	Thurmond.
Kennedy.	Veatch.
Kincaid.	Williams
Lemens.	of Sabine.
Mankin.	Williams
Martin.	of Travis.
McCombs.	Young.
Mehl.	

Nays—65.

Mr. Speaker.	Cox of Limestone.
Adkins.	Duvall.
Baker.	Enderby.
Barnett.	Eickenroht.
Bateman.	Finn.
Beck.	Finlay.
Bounds.	Gilbert.
Bradley.	Giles.
Chastain.	Graves
Coltrin.	of Williamson.
Conway.	Harman.
Cox of Navarro.	Harrison.
Cox of Lamar.	Heaton.

Hefley.
Hornaday.
Jenkins.
Jones.
Keeton.
King.
Kinnear.
Land.
Lee.
Long of Wichita.
Marks.
Mauritz.
Maynard.
McGill.
McKean.
Metcalf.
Moore.
Murphy.
Patterson.
Pavlica.
Pope of Jones.

Purl.
Ray.
Renfro.
Richardson.
Sanders.
Shaver.
Sherrill.
Shipman.
Simmons.
Storey.
Strong.
Tarwater.
Tillotson.
Turner.
Van Zandt.
Wallace.
Walters.
Warwick.
White.
Woodall.

Present—Not Voting.

Albritton.
Brice.

Ewing.
Webb.

Absent.

Anderson.
Baldwin.
Bond.
Davis.
Dunlap.
Fuchs.
Gates.
Harper.
Hogg.
Holder.
Hubbard.
Johnson
of Dimmit.
Kayton.
Long of Houston.
Loy.

Minor.
Mosely.
Olsen.
Petsch.
Pope of Nueces.
Prendergast.
Quinn.
Reid.
Savage.
Shelton.
Smith.
Speck.
Stevenson.
Waddell.
Wiggs.
Woodruff.

Absent—Excused.

Avis.
Brooks.
DeWolfe.
Graves of Erath.
Johnson
of Smith.
Kenyon.

McDonald.
O'Neill.
Rogers.
Stephens.
Westbrook.
Williams
of Hardin.

Mr. Graves of Williamson moved to reconsider the vote by which the amendment was lost, and to table the motion to reconsider.

The motion to table prevailed.

Question next recurring on the (committee) amendment by Mr. Wallace, it was adopted by the following vote:

Yeas—74.

Mr. Speaker.
Acker.

Adkins.
Albritton.

Baker.
Barnett.
Beck.
Bounds.
Carpenter.
Chastain.
Coltrin.
Conway.
Cox of Navarro.
Cox of Lamar.
Cox of Limestone.
Duvall.
Enderby.
Ewing.
Eickenroht.
Finn.
Finlay.
Gilbert.
Giles.
Graves
of Williamson.
Harman.
Harrison.
Heaton.
Hefley.
Hines.
Hornaday.
Jenkins.
Johnson of Scurry.
Jones.
Justiss.
Keeton.
Kincaid.
King.
Land.
Lee.

Lemens.
Long of Wichita.
Marks.
Martin.
Mauritz.
Maynard.
McCombs.
McGill.
McKean.
Metcalf.
Montgomery.
Moore.
Murphy.
Patterson.
Pavlica.
Pope of Jones.
Purl.
Ray.
Reader.
Renfro.
Richardson.
Sanders.
Shipman.
Simmons.
Storey.
Strong.
Tarwater.
Tillotson.
Turner.
Van Zandt.
Wallace.
Warwick.
White.
Williams
of Travis.
Woodall.

Nays—30.

Ackerman.
Bradley.
Brice.
Forbes.
Gerron.
Hardy.
Harding.
Hopkins.
Keller.
Kemble.
Kennedy.
Kinnear.
Mankin.
Mehl.
Morse.

Mullally.
Negley.
Nicholson.
Palmer.
Pool.
Rountree.
Sherrill.
Sinks.
Snelgrove.
Thompson.
Thurmond.
Veatch.
Walters.
Williams
of Sabine.

Present—Not Voting.

Webb.

Absent.

Anderson.
Baldwin.
Bateman.
Bond.
Davis.
Dunlap.
Fuchs.
Gates.

Harper.
Hogg.
Holder.
Hubbard.
Johnson
of Dimmit.
Kayton.
Long of Houston.

Loy.	Shaver.
Minor.	Shelton.
Mosely.	Smith.
Olsen.	Speck.
Petsch.	Stevenson.
Pope of Nueces.	Waddell.
Prendergast.	Wiggs.
Quinn.	Woodruff.
Reid.	Young.
Savage.	

Absent—Excused.

Avis.	O'Neill.
Brooks.	Rogers.
DeWolfe.	Stephens.
Graves of Erath.	Westbrook.
Johnson of Smith.	Williams
Kenyon.	of Hardin.
McDonald.	

Mr. Wallace offered the following (committee) amendment to the bill:

Strike out all above the enacting clause and insert in lieu thereof the following:

"A bill to be entitled 'An Act amending Article 6203 of the Revised Civil Statutes of Texas, as revised in 1925, and providing for a Board of Pardons and Paroles in this State; and providing for a system of recommending to the Governor of this State what persons shall be granted pardons, paroles and furloughs; providing that said Board shall consist of three members, to be appointed by the Governor; fixing their terms of office and salaries; providing that one member of said Board shall be denominated supervisor of paroles, and defining his duties; enacting other matters incidental to the subject of this act, and declaring an emergency.'"

The amendment was adopted.

House bill No. 20 was then passed to engrossment by the following vote:

Yeas—66.

Mr. Speaker.	Finlay.
Adkins.	Gilbert.
Albritton.	Giles.
Baker.	Graves
Barnett.	of Williamson.
Beck.	Harman.
Bounds.	Harrison.
Carpenter.	Heaton.
Chastain.	Hornaday.
Coltrin.	Jenkins.
Conway.	Jones.
Cox of Navarro.	Keeton.
Cox of Lamar.	King.
Cox of Limestone.	Kinnear.
Duvall.	Land.
Enderby.	Lee.
Ewing.	Long of Wichita.
Eickenroht.	Marks.
Finn.	Mauritz.

Maynard.	Shaver.
McCombs.	Shipman.
McGill.	Simmons.
Metcalfe.	Speck.
Montgomery.	Storey.
Moore.	Tarwater.
Murphy.	Tillotson.
Patterson.	Turner.
Pavlica.	Van Zandt.
Pope of Jones.	Wallace.
Purl.	Warwick.
Ray.	White.
Renfro.	Woodall.
Richardson.	Young.
Sanders.	

Nays—40.

Acker.	Mehl.
Ackerman.	Morse.
Bateman.	Mullally.
Bradley.	Negley.
Brice.	Nicholson.
Forbes.	Palmer.
Gerron.	Pool.
Hardy.	Reader.
Harding.	Rountree.
Hefley.	Sherrill.
Hines.	Sinks.
Hopkins.	Snelgrove.
Justiss.	Strong.
Keller.	Thompson.
Kemble.	Thurmond.
Kennedy.	Veatch.
Kincaid.	Walters.
Lemens.	Williams
Mankin.	of Sabine.
Martin.	Williams
McKean.	of Travis.

Present—Not Voting.

Webb.

Absent.

Anderson.	Loy.
Baldwin.	Minor.
Bond.	Mosely.
Davis.	Olsen.
Dunlap.	Petsch.
Fuchs.	Pope of Nueces.
Gates.	Prendergast.
Harper.	Quinn.
Hogg.	Reid.
Holder.	Savage.
Hubbard.	Shelton.
Johnson	Smith.
of Dimmit.	Stevenson.
Johnson of Scurry.	Waddell.
Kayton.	Wiggs.
Long of Houston.	Woodruff.

Absent—Excused.

Avis.	Kenyon.
Brooks.	McDonald.
DeWolfe.	O'Neill.
Graves of Erath.	Rogers.
Johnson of Smith.	Stephens.
Westbrook.	Williams of Hardin.

Mr. Wallace moved to reconsider the vote by which the bill was engrossed, and to table the motion to reconsider.

The motion to table prevailed.

PROVIDING FOR PRINTING REPORT OF COMMITTEE ON STATE ACCOUNTING SYSTEM.

Mr. Morse offered the following resolution:

Whereas, The Fortieth Legislature recognized the need for the establishment of a modern, uniform and co-ordinated system of accounting, auditing and financial reporting of the State's finances and fiscal affairs; and

Whereas, A full knowledge of the systems of accounting now in use in State departments and institutions was necessary before the Legislature could enact proper laws for the regulation thereof; and

Whereas, An actual survey by a committee was the only practicable way of obtaining the necessary information; and

Whereas, The Fortieth Legislature provided for the appointment of a fiscal survey committee to make a full and complete survey of all systems of accounting and auditing now in use in State departments and institutions and to recommend matters and things necessary to be done in order to establish such a modern and uniform accounting and auditing system; and

Whereas, Such committee was appointed by the Governor as provided by Senate concurrent resolution No. 17 of the Regular Session of the Fortieth Legislature, and has completed the survey and has submitted its report, a copy of which is attached hereto; and

Whereas, It is contemplated that some remedial legislation will be introduced in the next Called Session of the Legislature, and it is advisable that members of the House of Representatives familiarize themselves with the contents of said report in order that efficient legislation may be promptly enacted by the Legislature; now, therefore, be it

Resolved, by the House of Representatives of the State of Texas, That said report be, and it is hereby, ordered printed in the Journal of the House of Representatives in order that the information gathered and the recommendations submitted may be known to the Legislature, as well as to the people of the State of Texas.

The resolution was read second time and was adopted.

REPORT OF THE FISCAL SURVEY COMMITTEE OF THE FORTIETH LEGISLATURE.

Austin, Texas, February 4, 1929.

To: Hon. Dan Moody, Governor of Texas, and the Forty-first Legislature of Texas, in Session at Austin.

Your Excellency, Mr. President, Mr. Speaker, and Members of the Legislature: We, the committee appointed under the provisions of a concurrent resolution of the Regular Session of the Fortieth Legislature to make a survey of the several departments of State, State institutions and activities, with respect to existing fiscal conditions, etc., which committee is commonly called the Fiscal Survey Committee of the Fortieth Legislature, do herein submit our report.

The said committee will be hereinafter referred to as "the Committee."

The text of the measure creating this committee, in pursuance of which this report is submitted, is set out in full below:

Senate Concurrent Resolution.

S. C. R. No. 17:

Whereas, The need of the establishment of a modern, uniform and co-ordinated system of accounting, auditing and financial reporting of the State's finances and fiscal affairs is a matter of common knowledge; and

Whereas, The Governor in his message to the joint session of the House and Senate on January 20, 1927, recommended the enactment of laws establishing a modern, uniform system of accounting and auditing of all State departments and State institutions; and

Whereas, It is necessary, in order that this Legislature may act intelligently in enacting such laws, that a full knowledge of the facts relating to the systems of accounting now used in all departments of the State government and in all the State institutions be acquired; and

Whereas, This information can only be obtained by an actual survey of the systems of business practice of all the departments and institutions of the State and activities in connection therewith; now, therefore, be it

Resolved, by the Senate of Texas, the House of Representatives concurring,

That the Governor appoint a committee, to consist of three able and experienced business men who are responsible citizens of Texas, whose duties shall be as follows:

To make a survey of the systems of accounting and auditing used in all

State departments and institutions and activities in connection therewith in this State, and all details necessary to make a complete and full report upon all matters and things needed to be done in order to establish a modern, uniform and safe system of accounting, auditing and financial reporting of all State departments and institutions, and when said committee shall have made said survey as contemplated by this resolution to make a complete report of its findings to the Governor and the Legislature, with its recommendations.

That said committee shall have authority to examine, during reasonable business hours, any and all books, records, accounts, systems of accounting and devices belonging to or relating to any department, institution or activity of this State; and all State officers, heads of departments, institutions, bureaus and commissions and employes are hereby required to assist said committee when requested so to do in its labor and furnish such information requested by said committee whenever possible.

Said committee shall have power and authority to employ and compensate a secretary, public accountants and other help as deemed necessary by it in performing the duties imposed upon said committee by the terms of this resolution, and shall keep a record of its investigations and of all funds expended by it and to whom paid, and the amounts thereof.

The said committee as herein provided shall make such recommendations as to legislation as may in its judgment be necessary to establish a modern, uniform system of accounting and auditing in all State departments and institutions.

The work herein provided for is to be a work of co-ordination and investigation of methods of book and record keeping and in no case an audit of past transactions, nor to entail the expense incident thereto, but it is intended to develop a more efficient system of conducting the public business and safeguarding the handling of public moneys at a less expense to the State than at present.

The committee herein provided shall meet within ten days of its appointment at a time and place to be specified by the Governor, and shall select one of its members as chairman.

Members of said committee shall receive as compensation such sums as may in the judgment of the Governor be reasonable and customary, not to exceed

\$10 per day, with railroad fare, hotel, telegram, telephone and postage expenses incurred in the discharge of their duties, and shall be authorized and empowered to purchase such stationery and other supplies as may be necessary for the discharge of their duties.

All moneys authorized to be expended under this resolution shall be paid out of the appropriation for contingent expenses of the Legislature; provided, that the maximum amount which may be so expended shall be five thousand dollars.

Provided further, that all expenditures of such committee shall be paid on sworn accounts of the persons entitled to such pay when approved as provided in the appropriation act for contingent expenses.

The committee herein authorized shall be a committee for the Legislature to gather information and perform duties herein provided for and to the end that the Legislature will be informed as to proper laws to be enacted upon said subject.

In due course the several persons appointed upon the Committee, to-wit, George Armistead, of Harris county; S. H. Sanders, of Shelby county, and Clifton H. Morris, of Tarrant county, met at Austin and, after taking the oath prescribed by law, organized the Committee. George Armistead was elected chairman. Charles N. McClen-don, of Harris county, has acted as secretary of the Committee.

The obvious intention of the measure quoted above is that the Committee should proceed to the business of the survey by employing such clerical help, accountants and others as might be necessary to develop the facts desired. Accordingly, the Committee took under consideration the employment of competent persons to do the work of the survey. The Committee just at this point wishes to lay stress upon the fact that this survey is not a perfunctory task nor one that may be performed by so many clerks. It is a situation mixed with questions of accounting, law, the economics of public finance, and government administration. It would be quite impossible that any person could render effective service in this project unless professionally qualified in the financial and accounting phases of State government administration.

The Committee received a number of proposals; some from individuals and others from firms of accountants and systematizers—all eager to do the work, but not always offering assurance of fitness for the task. One fact that did

much to slow down matters was the meagerness of the sum appropriated for so large an undertaking. More than one qualified proponent, upon hearing the sum available, dismissed the matter. At length the Committee had about decided to employ a certain firm of experts to make a study of the situation for a specified sum, when the Committee learned that the contingent fund of the Legislature, out of which the expense of the survey was to be paid, had been exhausted and this by agencies of the State government other than this Committee, which agencies were authorized to spend money from the same fund. (In this circumstance the Committee felt that it had discovered evidence that the State had a ramshackle business system.) This Committee had up to that time caused to be spent out of the sum appropriated less than \$100—to be exact, \$76.73. Some unimportant sums are due to the members of this Committee for services and expenses incurred in performing committee work.

However, the Committee is disinclined to let this extinguishment of its working fund, even though meager and insufficient in the first instance, deter it from reporting to the fullest extent possible on this highly important matter. The chairman, therefore, with the acquiescence of the other members of the Committee, has undertaken to collect and present the following matters and things which are represented to be facts to be the best of the Committee's knowledge and belief. It will be observed that the measure quoted in its entirety above does not specifically confer upon the Committee the power to administer oaths. The Attorney General advises that it has no such power under this or any provisions of law. Hence, the Committee could hold no hearings nor compel any statements to be given under oath in the course of its inquiries.

The statements herein contained relate to a situation which is the outgrowth of years. Much has been contributed to its complexity by distant past and even recent legislation, having the best of purposes and in days when the administration of State finances were relatively simple. There appears to have been at least one effort in the past to improve the system—there seems to be little doubt that it failed. We are confronted with a condition requiring rectification, and it will serve no useful purpose to inquire into its origin or who was responsible for it, if, indeed, such a responsibility can at this

time be cast upon anyone at all. Therefore, the references herein made to incumbent officers or personnel of any State department or institution are wholly impersonal. The Committee is free of any purpose or desire to put anyone into a position of bad faith. The prevailing system, however, is deficient and we shall have to point out the deficiencies as we find them, regardless of any person who may be incidentally involved.

The Situation in Brief.

The State of Texas is entirely without a uniform and co-ordinated accounting plan or system wherein all of the fiscal affairs of the State and its various departments, institutions and activities are brought together.

There is no single agency in the State, and no combination of agencies, that is or are functioning to see that all of the existing laws relating to both auditing and accounting are being enforced. Similarly, when new legislation is enacted that carries with it either expressed or implied accounting or auditing provisions, there is no one discharging the specific responsibility of seeing to it that the new accounting requirements are met. Consequently, it is not surprising to see that many of the laws relating to both auditing and accounting are either being disregarded entirely or have been disregarded entirely for many years after they became laws. Also, should laws that are being complied with at present be disregarded tomorrow or with the advent of another administration, there is none to notice or prevent such derelictions.

Not all funds rightfully a part of the State revenues are handled through the offices of the State Comptroller and through the Treasury, nor under the direction of the Legislature; and some so handled through the Comptroller's and Treasurer's offices are not regularly reported or deposited. This has particular reference to local funds at various institutions, the fees charged by such institutions, etc., which are not infrequently of such size as possibly to have effect upon legislative appropriations, provided the Legislature was aware of the true status.

During the administration of the Comptroller, the immediate predecessor of the present incumbent, some \$300,000 of gasoline taxes came into the Comptroller's office which became the subject of a lawsuit. An injunction was issued preventing the money being received into the State Treasury, which,

under the provisions of law, can be finally done only upon a deposit warrant from the Comptroller. Pending the determination of the suit, the situation was met by the Comptroller by depositing the money in the American National Bank at Austin. A receiver was appointed and a heavy expense was caused which operated against someone, either against the State or against others. The money remained on deposit at the bank mentioned until only a few months ago. In the meantime, the State lost the interest that would have accrued had the funds been in the hands of the Treasurer. Article 4354 in Chapter 2 of Title 70, Revised Statutes of 1925, provides the procedure that should be followed in the case of funds received for which the Comptroller is not able to issue a deposit warrant, but which upon delivery to the Treasurer is covered by a deposit receipt, there to be held until the disposition of such funds should be determined. It appears that the reason for the matter being handled as it was, was that there was no one in the Comptroller's office who knew how else the money could be handled, being simply unfamiliar with the deposit receipt law above referred to. This was, of course, an unusual incident; but it is reasonable to suppose that there are others which have occurred during the incumbency of one officer which remained unadjusted in this detached sort of position over into the term of his successor. If such occurrences are not recorded on the State's books in money, which the Committee has reason to believe is the case, it is an extremely hazardous practice to merely depend upon a letter file and court records for a final accounting.

The Committee finds other departments, such as the Board of Water Engineers and the Secretary of State, making use of bank accounts for the deposit of funds held in suspense. Current press news is to the effect that the Commissioner of the General Land Office is being complained against before a legislative committee for some such practice. While the Committee does not say that this method of handling suspense funds has resulted in wrongdoing, it is evident that even at the present time the law provides a different and a better method. And again we come to the proposition that the State has no fiscal officer whose duty it is to see that all these suspense matters and money connected therewith are properly accounted for and finally disposed of.

No State departments are being audited at all, or, at least, if audits are being made, they are not made by representatives of a State auditing department, or, with possibly one minor exception, by a person not appointed by the same authority that is responsible for the work under examination. The exception referred to is the penitentiary system.

Various institutions of the State do undergo audits by independent practitioners, or public accountants, who are selected, engaged and are acting for the heads of the various institutions. These audits rarely, if ever, come to the attention of the public or find their way beyond the institutional heads who have employed the auditor. If the reports contain criticisms of existing administration, they are lost in the smother of board matters, and there is no assurance that they will ever fall into the hands of authorities above the institutional heads or that any of the things criticized will be acted upon correctively. Such work should be done by some agency of the State in order that every institution might have the benefit of the experiences of all the others and in order that comparative statistics might be compiled and uniform and standardized accounts and practices be adopted and enforced.

Concerning periodic audit, the Committee would make plain its opinion that this should be performed in all departments by an auditing and accounting department of the State.

Several of the departments have gone to great pains and expense to have designed and put into operation systems of accounts. No matter how good or how adequate, no one can tell whether they will survive. This is so because, when administrations and employes change, there is no agency to see that the accounting systems will remain intact and perform their functions, since many political officers look upon such systems as little more than something providing distributable patronage.

All uniform and co-ordinated accounting systems reveal former duplications of effort and consequent expense, and they provide many opportunities for economy by eliminations of duplications of work, duties, travel and purchasing of records. Practically all departments and institutions keep accounts, so that records of similar or identical character, and frequently of a single design of a printed form or record, would serve them all. Yet there are almost as many separately designed forms and records

as there are institutions, all printed in relatively small lots at several times the cost of one large printing of a standard uniform design.

Having no co-ordinated system of accounting, the benefit is lost of one of the most effective means of locating and preventing duplications of expense.

While supposedly and nominally operating under the "budget system," there is no actual complete budget system that records and accounts for both prospective and actual revenues and expenditures, serving to keep the expenditures within the revenues and to prevent the contracting of liabilities in excess of either constitutional or statutory limitations. No budget system exists, nor anything resembling one, by which expenditure is subjected to executive control or by which, at any given time, the approximate financial position of the State may be determined—nothing to reveal such highly important facts as the unrealized portion of the estimated revenue to which legislative appropriations were applied to determine the tax rate, or the unexpended balances of appropriations and the encumbered and unencumbered portion thereof, all of which forecasts what may happen at the Treasury. The only thing that may be regarded as reasonably certain is that usually once a year, about September 1st, the general revenue fund at the Treasury is exhausted. And then the State's obligations go unpaid until incoming taxes of the succeeding year extinguishes the deficiency.

The plagues of an exhausted treasury runs back into time wherein the memory of man runneth not to the contrary. As far back as 1881 there was a deficiency in the general revenue fund at the Treasury. Some members of the Legislature conceived the idea of covering the deficiency by borrowing from the school fund its ready cash, giving the school fund in return a form of interest-bearing State bond. A bill was introduced to that effect and, if it had become a law, the permanent fund of the University and possibly that of the free schools would have been then delivered over to the general revenue fund and that form of State obligation would have taken its place. Oran M. Roberts was at that time Governor, and when he had explained the absurdity and the injustice of such a measure it was dropped. Later, in 1889, this financial fallacy again appeared in the Legislature and the law was passed under which, during the years 1890, 1891, 1893, 1906 and 1915, various of these

bonds, known as manuscript bonds, were issued in exchange for school funds, so that at the present time there is in the University permanent fund \$625,000 in these bonds. In addition to these holdings by the University permanent fund, the official reports from the accounting offices at Austin indicate that there is approximately \$1,750,000 in manuscript bonds held in like manner by the free school permanent fund. It is an interesting fact that while the State has been paying interest on these bonds regularly, no steps whatever have been taken to pay these borrowings back to the funds to which they belong. Moreover, the manuscript bond law is still in the statutes, and it has been but a little while since a predecessor of the present Governor was proposing to meet a Treasury deficit with another manuscript bond in exchange for several millions of University permanent fund money, newly accumulated from oil royalties.

These facts are mentioned to show that for many years the State has been undergoing, with noticeable regularity, the troubles of Treasury deficiencies; and second, that there is not now and never has been a fiscal body or fiscal officer of the State who feels charged with the duty of bringing to the attention of the Legislature this manuscript bond matter and other matters of equal importance.

Further on the matter of State bonds. The Committee is informed and believes, and upon such information and belief so alleges the fact to be, that the free school permanent fund is the holder of penitentiary system and/or State Railroad bonds in the sum of several hundred thousand dollars, on which the State has defaulted in both principal and interest. The State of Texas may not sit back in the position of an indulgent creditor—the State of Texas is not the creditor, but the debtor, and in the circumstances a defaulting debtor, the debt being to its ward, the permanent school fund. And this brings us to the latest question of the day—the proposal to issue bonds for the construction of highways to the extent of some millions of dollars. What bearing will this unenviable record with respect to State bonds have when, and if, issues of Texas State highway bonds are offered for sale? With that question this Committee is not concerned, but points to this fact that these obligations last mentioned have lain there just like the others, with no one to give consideration to their eventual extinguishment, no one

to present them for biennial appropriations, the whole or in part. It cannot be denied that this use of permanent school fund money by the State for its current purposes, at whatever rate of interest, shuts out just so many dollars of investment in the bonds of school districts, which districts are entitled, in the sale of their bonds, to first call upon the cash in the permanent fund. It is not thought that any will contend that these borrowings should not be paid back by the State to the funds to which they belong, and this for reasons that are perfectly plain. Upon whom, then, does the duty rest to put these particular matters into the course of adjustment? Upon the Treasurer? Upon the Comptroller? Upon the Board of Education? Such an inquiry of any of these agencies of government would be useless, for there is not one of these, nor any others, who have touched the transactions from the beginning to the present time who cannot with good reason declare it no duty of his. The plain fact may just as well be admitted that, notwithstanding a wealth of law and regulation, the State has no fiscal structure definitely joined together by law with the duties thereof resting upon a responsible fiscal officer.

The difficulty and uncertainty under which a Legislature and Governor may, in these circumstances, undertake the biennial task of the appropriation bills, ought to be easily seen. The injustice and the unfairness to which every employe and every seller of goods and supplies to the State is subjected by these recurring deficits are beyond question.

The Object to Be Attained.

Financial administration is a public duty and a task which is imposed involuntarily upon a State and concurrently with its creation and existence. Current audit and examination of its financial transactions and the keeping of accounts are a part of that task. Periodic audit and review is comparable to the exercise of police power and is in essence not different from any other peace-time measure of public safety.

Considering the situation briefly described in the preceding section, the thing needed to be done is such a co-ordination between the several departments as will bring the scattered State establishments into contact with a central auditing and accounting office at the Capitol to which their accounts will be joined to such an extent as may be deemed practical and necessary to a supervisory relation and for the devel-

opment and operation of a budget system. We will discuss the budget system more at length herein.

Auditing and accounting, to which reference is made in the Fortieth Legislature's concurrent resolution, are necessarily the chief factors in the improvement to which that measure is directed, but neither of them is per se the object sought for. Each of them is a means to an end, and that end should be a realized benefit. This thing must go farther than the mere idea of an army of clerks wading indifferently through tons of vouchers; it must go farther than the mere writing up of acres of figures which mean nothing, in books which are never looked into. Uniformity in auditing and accounting in so diversified a group of activities can be carried out only as to fundamental objects. Uniformity in many things, the presentation of disbursement vouchers, for example, is quite impractical—the Highway Department would flounder in endless difficulty if it had to use exactly the voucher system of the University, and the reverse would hardly be deemed desirable. Absolute uniformity in such non-essentials might be instituted, but if the work of co-ordination—the tying of the units into the central office of audit and fiscal control—were not accomplished, the situation would remain practically unimproved.

The Center of State Finance.

The final execution and recording of the financial transactions of this State, as of most other States, the receipt and expenditure of money, are by the nature of things accomplished through the offices of the Comptroller of Public Accounts and that of the Treasurer. With the passage of time and the growth of the details of financial administration, they have come to be regarded as, and are, the center of the State's finances. After the example of the Colony of Virginia, the incoming States of the Union, one after another, have provided for a Comptroller (sometimes called an Auditor) and a Treasurer, each elected by popular vote. Texas has had these two officers since the day of the Republic, and the incumbents hold office at this time under the Constitution of 1876. Of course, a Treasurer and a Comptroller, or Auditor, are necessary officers to State government.

Their offices are purely administrative and, although of constitutional origin, neither of them holds nor exercises any constitutional power. They do pos-

ness under the Constitution the vested right to hold their offices during the period for which they were elected or appointed and to receive the emoluments thereof. Section 23, of Article 4, of the Constitution, provides that each shall "perform such duties as are or may be required of him by law." Agreeable to this provision of the Constitution, the duties of the Comptroller are set out in Chapter 2, and the duties of the Treasurer in Chapter 3, of Title 70, of the Revised Statutes of 1925.

This reference to the law is for the purpose of showing that the present duties of either of these officers and/or the procedure, systems, accounts and anything whatever relating to the conduct of their offices are fixed, not by the Constitution, but by the statutes, and may be changed by legislative enactment. It may be added that the duties of each of these officers have, in fact, been thus changed and added to during the past fifty years.

And yet, while their duties are those prescribed by statute, their official positions are constitutional. Thus, in the event of a specific violation of statutory duty, the only remedy of an aggrieved citizen would be mandamus proceedings, which have at times been resorted to, but in the event of habitual or systematic disregard of statutory duty the only remedy would be impeachment or possibly quo warranto proceedings.

While the last-mentioned situation appears not have arisen in the past, this serves to show the difficulty of controlling a recalcitrant in one of these elective constitutional offices and the impotence of any officer of State other than the judge of a court of competent jurisdiction to bring him to terms. Running a government, however, by mandamus proceedings cannot successfully be done. Wherefore, there has probably grown up around the fact of constitutional origin the erroneous idea that these two officers may interpret the law relating to their official duties to suit themselves or observe it as they please. At any rate, it ought to be perfectly plain that one of these elective constitutional officers may with impunity disregard any law governing the conduct of his office so long as nobody's toes are trampled upon, or disregard any law governing his relations with another constitutional officer so long as that other officer does not complain.

To illustrate a dereliction of official duty prescribed by the statutes, we quote

below in full Article 4366, in Chapter 2, of Title 70, page 1165, of the Revised Statutes of 1925, the chapter relating to the duties of the Comptroller of Public Accounts:

"To Examine and Cancel Warrants.—The Comptroller shall examine the disbursements of the Treasurer-at the end of each quarter, and shall, together with the Treasurer, cancel the warrants which have been paid in such manner as to prevent their future circulation, and shall examine if the receipts acknowledged by the Treasurer during the quarter correspond with the deposits, and if the balance of money reported to be in his possession is actually in his hands."

The duty thus required of the Comptroller is, in plain language, that of auditing the Treasury. The Committee sees in this provision of law no unreasonable or impractical requirement. Known as an internal audit, it would be surprising that anyone should regard it as other than the most fundamental, customary and absolutely necessary procedure that can be devised for safeguarding the Treasury. The Committee's inquiry has shown that this provision of the law has not at any time been carried out by the several Comptrollers who have occupied that office since the day the article was written into the statutes.

In this connection, and as bearing upon the danger of such omissions, we submit below a news item recently published in Texas newspapers:

State Funds Lost—Utah Treasurer Confesses He Embezzled \$110,000.

By United Press.

Salt Lake City, Utah, Dec. 29.—David Pugh, Chief Deputy State Treasurer, has confessed that he embezzled \$110,000 of State funds and lost it all on horse races, Sheriff Patten said today.

Patten spent two hours last night with Pugh in county jail, where Pugh was held on an open charge pending filing of formal charges when an audit of the Treasurer's accounts will be finished.

"How did you get away with it?" Patten asked Pugh.

"It was easy," replied Pugh, according to Patten. "The books had not been audited since 1921."

Again, Article 4345, in Chapter 2, Title 70, on page 1158 of Volume I, Revised Statutes of 1925, reads:

"Account of Comptroller.—The account of the Comptroller against the

State shall not be passed to the Treasurer until approved by the Secretary of State."

Which means that the Comptroller may not, under the law, solely approve the expenditures of his own department, but that they must be submitted before payment to another and disinterested department for approval as to their regularity, which, needless to say, is a wholesome provision and should be observed. We are informed that this procedure is not followed.

If, upon inquiry made hereafter by the Legislature of the officers concerned, it should be found that the above-described auditorial duties are being fully carried out and that the accounts of the Treasury are being properly audited, the question will still remain as to how long such correct procedure would continue beyond the expiration of the incumbency of the present accounting officer. If the work has been shirked and the law disregarded in the past, it may as easily be done in the future, and the point is made that while these provisions of law do exist, there is no agency of government charged with the duty and the power of enforcing their observance.

The instances cited above relate to specific requirements of the written law. What about procedure which is implied only by the circumstances and not covered word for word in the written law? It should be recognized that rules of fiscal procedure have to be written in general and fundamental terms and that it is not practical to iterate every detail, nor is it possible to make them speak for measures enacted in the future. They should, therefore, be followed in the spirit of the fundamentals contained in them. The instance first mentioned above, which embraces, or should be construed to embrace, every feature of Treasury audit, may be considered to include a number of things not otherwise specifically mentioned, or such as may have come into existence subsequently to the enactment of Article 4366 above cited. One of these is the following:

The allotment of funds to depository banks which originated in the Acts of the Legislature of 1923, is the function of the Depository Board, of which the State Treasurer is a member and secretary, but the actual detail of extending the deposits and collecting back the principal and the accruing interest is in the hands of the Treasurer. Years passed without an audit by the Comptroller nor by anyone else not connected

with the Treasurer's office, at any time, to determine the status of the principal advances so made, nor to determine if the interest collected is more or less than the correct amount due the State and according to the terms of the allotment, nor was the correctness of the distribution of such interest to the credit of the various funds involved verified.

Considering the isolated position of the office of Treasurer and the present indefinite and incomplete requirements of legal regulation, it is not impossible that the Treasurer might, with actual success, refuse to permit the Comptroller to audit these transactions upon the grounds of his constitutional or legal independence, or upon the proposition that the written law nowhere required the Comptroller so to do. And on the other hand, the Comptroller might take the position that such an audit was not specifically required of him and refuse to perform it. So much for the incompleteness of the law, and even if it were not so and the requirements were written into the law with the utmost particularity, who at the present time would discover the dereliction and, having discovered it, have the power to enforce observance? It will be no answer to say that the Governor is the executive officer sworn to enforce the laws and that he should compel the observance of the fiscal laws along with all others. In the first place, the whole financial establishment of the State is loosely held together, and the Governor has no machinery to give him knowledge of such infractions; and furthermore, should he have such knowledge and should he try upon his own initiative to force a correction of such palpable neglect and violation of law, the first reply that would come from such an effort would be that the Governor is trying to browbeat a constitutional officer or usurp the functions of a constitutional office other than his own.

The Board of Control.

The Board of Control was created under the Acts of the Legislature of 1919. As the law now stands, the Board, with the exception stated below, has no connection with the work of auditing State institutions or any department of State government. Its functions do not exactly bear out its name. A perusal of the caption of the act by which it was created discloses that there was some intention at the time of its enactment to include among the Board's duties that of a general

supervision of State accounts, but nothing of the kind was written into the law and, consequently, no work of that sort is being done, or can be done, under authority by that body. The Board does maintain a small staff of auditors or examiners who periodically make some sort of review of the accounts of the several eleemosynary institutions over which the Board exercises control.

The nature and extent of the Board's duties and operations are, moreover, such that it could not properly exercise the function of audit and examination for the whole State structure, and this chiefly for the reason that its operations include such matters as make it necessary that its own accounts, records and official acts should be audited, which, needless to say, is not being done. This refers particularly to the extensive transactions in its purchasing division and the receipts and expenditures and disposition of local funds at the several institutions it manages. The statutes of 1925 do not specifically mention the institutions to which its authority extends, but it is understood that these number about fifteen.

It is barely possible that the Legislature which created this Board at one time had in mind the development within the Board of a substantial control of State finances, but it is pointed out that no such end has been attained. The control it exercises over expenditures is limited to the purchasing of material and supplies for all the departments, institutions and activities of the State, the penitentiary system excepted. The nearest this department comes to financial control of anything is to buy the best for the least money, and, in doing so, to be governed by the limits of legislative appropriations, or other lawfully available funds.

This statement of the Board's functions is made for the purpose of making it clear that it does not perform any acts of actual financial control. Among other things, it prepares an extensive statement of proposed appropriations for each biennium, which is submitted to the Governor and the Legislature, and which relieves the Governor of a detail work formerly performed by his office. This document is called a budget, and it generally has the form and substance of one, containing, among other things, an estimate of revenue available for appropriation. In the work of preparing this document, applications are received from the various departments and institutions, setting out their needs, and much time is given to

hearings before the Board upon this subject with the various departments. The final result is its recommendations for the biennium, but, except as to the detail and the facility of gathering together of data, their recommendations are of no force and are of scarcely more practical value than the gathering together of some sort of figures approximating the wishes of the various department heads of their requirements. The final word, as is well known, rests with the Legislature and the Governor.

Under the budget system hereinafter proposed, the Board of Control should be relieved of this duty of preparing the so-called budget and that work turned over to the Auditor of State as ex-officio secretary of the Budget Committee.

The Comptroller's Office.

The Comptroller, once solely auditor and accounting officer in accordance with the relatively simple needs of the State's financial establishment, now has a multitude of administrative duties which have practically changed the character of his office. Successive Legislatures, in the enactment of various laws, have placed upon the Comptroller duties which do not comport with the true character of his office as originally designed. In the performance of these duties he is the collector of several millions of dollars each year, and in the doing of this his stewardship is without any sort of auditorial review, which unquestionably he should have from some source. The law, for example, makes him the collector of the gasoline tax, gross production tax on oil, tax on sulphur production, certain occupation taxes, inheritance taxes and probably some others of which this Committee does not know. These are matters which the Comptroller, in the fitness of things, ought to be required to and empowered to audit and gather into books of account, but should not handle as a collecting officer.

With respect to the collection of taxes through tax collectors, it has always been the Comptroller's function and it should so continue until changed, to audit and account for the tax rolls sent in from the various counties, to effect settlements with the tax collectors and record and account for the exceedingly large record of delinquent taxes. With respect to these dealings with tax collectors, of which there are undoubtedly not less than 250, there is an immense detail and the revenue involved runs into many millions. He

handles, but should not, much of this money. We have reason to believe that the difficulties of such a task are heightened by the fact that the Comptroller is an elective officer, who is dependent not a little upon the friendship and political support of these and other persons—bondsmen of tax collectors, oil, sulphur and telephone officials and others—whose accounts must pass under his review. He has, also, official contacts in which he similarly represents the State with tax assessors, sheriffs and, in a small way, with county treasurers, each equally numerous and as politically powerful as the class first mentioned. It would be rather remarkable if, in such circumstances, the Comptroller were found to have rigidly enforced the law in dealing with these people. It is outside the scope of the Committee's instructions that it should attempt to learn whether the Comptroller does or does not, and it has not done so. At any rate, the Committee believes the interests of the State should be transferred from this officer to another, an appointive one, wholly free of conditions which produce constraint.

The co-ordination of an accounting and auditing structure could not be accomplished without (first) a survey of the various State activities and a consideration of their particular accounting needs in the minutest detail, and (second) the designing and installation of a system. Such a constructive work could not be done effectively short of eighteen months or two years, considering the training of employes, etc. The duty of similar work has for decades been placed upon the Comptroller, but the work has never been done. Such a thing is at this day not to be thought of. Were a particular Comptroller to be given an appropriation for and charged with a definite responsibility for doing such a work, he could not discharge the responsibility because of the fact that his term of office would expire almost immediately upon the installation of the changed system and, if not re-elected, there is no assurance that the newly-elected Comptroller would undertake to carry out the new plans or that he would not, in pursuance of the prevalent system of political patronage, deliver it over to a staff of untrained employes, which could not, even if they would, operate it to the desired and necessary ends.

The desired features of co-ordination, uniformity and perpetuity of such work can be secured only when there is a stable organization, directed by a man

who must have prescribed training and experience, whose pay and tenure of office will be attractive to persons of ability and proven accomplishment, and whose selection and retention in office shall be so far removed from political considerations and incumbent administrations that he can act and criticize freely and impartially.

The facts are, that the duties now outlined by law for the Comptroller have never been, cannot and doubtless never will be satisfactorily performed for more than a passing moment by an elective officer. The very means of his choice from among any array of candidates, who merely want the office and need a job, and who do not possess nor are required by law to possess any peculiar qualifications of training or experience as a condition precedent to election and induction into office, prevents the securing of more than an occasional man of outstanding ability.

The framers of the Constitution of the State of Texas, in making provision for the Judicial Department and with particular reference to the Supreme Court, took care to provide that "no person shall be eligible to the office of Chief Justice or Associate Justice of the Supreme Court unless he be, at the time of his election, a citizen of the United States and of this State, and unless he shall have attained the age of thirty years, and shall have been a practicing lawyer or a judge of a court, or such lawyer and judge together at least seven years," and, with respect to the Judges of the Courts of Appeals, Civil and Criminal, and the district courts, similar qualifications were specifically required. It is not blamable upon the framers of the Constitution, but it is nevertheless a fact that no qualifications whatever were specified for the now highly technical office of the Comptroller of Public Accounts further than that he shall be a citizen of the United States and of the State of Texas, and that he shall have never fought a duel. Such, however, are the conditions under which persons seek and hold this office. The economic conditions and the relatively small size of the public business which originally made it possible for a man of no special qualifications to hold the Comptroller's office have changed to such an extent that it is no longer possible to conduct the public business without some guarantee of administrative ability. And it is a striking fact that, whereas our judicial system functions with recognized adherence to funda-

mental principles and proper procedure, we are, in our financial system, forever dragging a ball and chain, knowing not whither we are bound.

It is the simple truth that our troubles with accounting and auditing, and much of the lack of co-ordination in other ways, always have centered just here—as they always will, as long as the situation remains as it is. The most perfect accounting system, if installed under the present plan of organization, would be wrecked, unrecognizable and ineffectual in half a dozen years.

There is, however, no practical need for the abolishment of the office of Comptroller of Public Accounts, since there is an abundance of things that officer may do apart from the auditing and accounting, which it is desired to improve, which will enable such officer quite fully to earn the meager salary allowed him by law. The thing to be done, therefore, is to divorce this officer from the duties now being and hereafter to be performed in connection with the operation and desired reorganization of the State's financial system.

The State Treasury.

This department's position in the scheme of things, present and prospective, is not such as to call for any fundamental change. Its principal need at the present time, and for some years past, is that of examination, which should be thoroughly done and with scrupulous regularity. Conceivably, this duty should be performed by an auditing officer of the State. It is more than absurd that the transactions of this office should not be reviewed oftener than once in about every ten years, thus putting the Treasury in the meantime in the position of a bank that is never examined. In times past this failure has resulted in scandal. Professional accountants have been called in at long intervals at heavy expense and with doubtful results. The more distant the date of a given record, the more difficult it is to review it intelligently and fix responsibility.

The office, and all that goes with it, cash, securities and other things of value representing the public treasure, and things held in trust under provisions of law for which the State is morally responsible, if not legally liable, running into immense sums hundreds of times the size of the Treasurer's bond, are from time to time transferred from an outgoing to an incoming Treasurer with but little, if any, more formality

than would occur in the case of a county treasurer. No accounting officer of the State is present; no audit is made; no determination of the past stewardship of the outgoing officer, nor any fixing of present responsibility upon the incoming one; the two persons give and take receipts in such manner as they see fit for their individual protection, and the State, as a sovereign entity, interested to the last degree, simply stands by in the rather ridiculous position of a helpless onlooker. If the question is asked: who in such circumstances represents the sovereignty of the State, the answer is: nobody. Eventually that sort of procedure, in which the State does not take a hand, is going to lead to trouble of the first class.

Much can probably be done to improve the Treasury's internal procedure and safeguards as a part of the work of co-ordination and without disturbing recognized procedure nor very greatly, if at all, increasing present personnel. One thing of high importance is that the Treasury should render a statement once a month, after the fashion of the United States Treasury, to every department or institution for which it carries on its books a current fund, that is to say, a fund against which warrants are drawn and into which deposits are made. Such a statement is comparable to a bank statement, except that inasmuch as it cannot be accompanied by cancelled warrants, the numbers of the warrants are shown against the amounts. Otherwise, it shows the beginning balance, the deposits added during the month, the warrants paid during the month (with numbers and in detail), and the balance at the Treasury to the credit of the account at the end of the month (or day). Beyond this the co-ordinated system would require the department or institution to which such statement is sent to reconcile it with its own books stating the outstanding warrants or other items that represent the difference, if any, between the balance shown on the Treasury statement and the balance shown on its own books, and then transmit the statement with such reconciliation to the Auditor of State. (Reference is made further herein to this officer.) In no other way may any institution be assured of its actual standing at the Treasury; in no other way may errors and omissions be discovered and corrected.

In the case of the Highway Department, for which warrants number many

thousands each month, the diligence of that department has resulted in the daily procurement of a list of all warrants paid by the Treasurer. This list is only an informal adding machine tape, which, while falling far short of what is really needed for an effectual reconciliation of cash balance, is yet invaluable. While this makeshift is unbusinesslike and unsatisfactory to the last degree, it is better than nothing at all—which, we are informed, is exactly what other departments get, except for some occasional statements.

Honesty and a reasonable amount of intelligence being presumed, the office of the Treasurer does not require a man of special business qualifications and the hit and miss system of selecting the Treasurer by popular vote will serve all purposes for a long time to come, provided there is created on arm of government with the strength to enforce the rules of the co-ordinated fiscal system, and which will subject the Treasury to regular examination.

The laws outlining the Treasurer's duties should be rewritten and, in doing this, thought should be given to the breaking down of his virtually impregnable isolation, which, if continued as it now is, would beyond question prove to be an ever-present stumbling block to effective business administration. Conceivably, the best way to accomplish this would be to put his actions and the standards of administration of his office more directly under the survey, control and responsibility of the Governor, subject, however, and of course to the provisions of the law relating to the Treasury.

Concerning Remedies.

The matters mentioned in the foregoing pages are submitted as typical of many others which the Committee has reason to believe exist, but which for the lack of resources it has been unable to discover and state with particularity. What has been said, is, in its opinion, sufficient to evidence the breakdown of the auditorial function and much of the useful features of practical and serviceable accounting. The absence of financial control is not to be blamed upon the present incumbents in the two offices mentioned, nor upon their predecessors in office, since past Legislatures have made no provision for budgetary administration nor have they, apparently, given its true elements any consideration. However, the fact is evident and continues to be so with increasing force, that our fiscal adminis-

tration is a hodge-podge of blundering inefficiency and archaic methods which does not comport with an establishment so large as the State of Texas.

Frankness therefore impels us to point out the source of the trouble and say that these tremendous affairs which center in the Comptroller's office never can be successfully administered by an elective officer, subject to the exigencies of politics; not required by law to have special fitness for the position as a condition precedent to election and qualification; enjoying practical immunity from recourse by any executive officer for dereliction of duty. Not until all those functions of this office which relate to auditing, accounting and financial control are transferred to an appointive officer, removable for cause by constituted authority, the basis of whose tenure of office is efficiency and thorough administration under the law, will this intolerable condition come to an end.

There are three distinct divisions of the situation, two which need correction and one which needs development, and it is with respect to these the Committee makes its recommendations.

The first of these is co-ordination which is the work of bringing all the departments of government into a fiscal system, fixing their responsibility to keep their accounts and make their reports and to establish the proper contact for each of them to the central accounting office to be in charge of an appointive officer.

The second is the establishment of a thoroughgoing accounting and auditing system, which will not only perform the work of examining into the wholeness and validity of expenditures as is now partially done, but will extend the supervision of the accounting officer and his authority to make periodical examinations of the accounts of all departments, and will require him so to do.

The third is the establishment of a system of financial control otherwise called the budget administration and the creation of the necessary personnel and accounting machinery to make it effective.

It is unavoidable that legislation will have to be enacted to accomplish these ends. And since such legislation would be chiefly for the purpose of making effective all the details of the new arrangement, it will be necessary that such details be first worked out and a complete financial structure designed before any attempt is made to cover them by provisions of law. It will be necessary also in the doing of such a work,

that full consideration be given to the proper handling of those features of the public business which in principle and under public policy are not subject to change, as for example, the principals of the permanent school funds and the annual distributions to the public schools. Also the accounting detail to be prescribed and later made operative under fiscal laws should give due consideration to existing laws relating to such matters as Confederate pensions and free text books, and regulations should be laid down in such a way that the interests of the beneficiaries of these laws should in nowise be impaired. Likewise, due consideration should be given to the peculiar financial position of the Penitentiary System which is and has been a rather unusual and vexatious one and may continue so in the future. Added to these considerations is the task of sorting out and providing for the vast details of present procedure. Some of these may be found to be useless and entitled to discard, others to be continued and possibly amplified and improved in the interest of the public service, but in neither case should a decision be made without the utmost consideration of all present and possible future needs. In all such matters and through the entire work of the reorganization herein recommended the body having it in charge should have the advice of the best accounting talent procurable and legal counsel of their own choice.

It would be quite impossible for such change to be effected without necessary enactments by the Legislature to make it operative; it would be quite out of the question for the Legislature to give the matter of reorganization prompt consideration satisfactory to itself, without the whole details of the plan of operation worked out and submitted and ready for adoption or alteration. Hasty action upon so extensive and complicated a subject cannot possibly accomplish the desired ends. It is, therefore, recommended that the body to which this work should be committed be provided with the necessary funds and authorized and directed to employ and make use of accountants, systematizers, economists, lawyers and such other persons of special qualifications necessary to complete the work of: (a) co-ordination, (b) creation of a department of accounting and auditing, and (c) the institution of a budget and a system of budgetary control, and that, upon the completion of the work they submit to the Forty-second Legislature

the full changes, with a complete draft of the rules and regulations necessary to be enacted into law by the Legislature to make the changes legal and operative, including the institution of the budget control system.

The Committee's Recommendations.

The Committee recommends that upon the determination of the extent of the changes in this manner to be effected, there be a revision of the law prescribing the duties of the fiscal officers herein referred to, to take the place of those now contained in Chapters 2 and 3 of Title 70 of the Revised Statutes of 1925 and that the same be so written that upon becoming a law the revision will comprise a complete fiscal code with the scattered provisions of the statutes at present applying to the offices of the Comptroller and the Treasurer gathered together and restated in the new draft. The fiscal code thus written should embrace all the laws necessary for the institution of the budget and the creation of the Budget Committee, hereinafter described which shall have power to exercise control over the financial transactions of all departments, offices and institutions except the judicial and legislative departments.

The Committee recommends that there be created the office of Auditor of State, an appointive office; the manner of the appointment of which officer being hereinafter set out; to take over from the Comptroller of Public Accounts all of the duties imposed by law upon the said Comptroller at the present time which relate to accounting, auditing, the issuance of warrants on the Treasury for receipts and expenditures, and the conduct of public finance, leaving incumbent upon the Comptroller only those duties not taken over by the Auditor of State; the delivery over by the Comptroller to the Auditor of State of all records, books and accounts past and present, desks, office furniture and accounting devices necessary to the carrying on of the business thus transferred, together with such division of space now occupied by the Comptroller's Office in the Capitol building as will permit room for the organization of the new office, and leave the Comptroller with an office and necessary equipment for the performance of such duties as remain to him or be hereafter assigned to him to law.

The duties of the Auditor of State should be, in fact and in law, the duties of an auditor and chief accounting officer of the State with the power of examination over all departments; the

duty of reporting to the Governor all derelictions of fiscal duty or infractions of the fiscal laws by any department or department head; the operation and maintenance of the general system of accounting and reporting to be outlined by the Board of Fiscal Advisers and by the Legislature enacted into law; the auditing of all revenues and other income of the State and all disbursements, no money to be received into the Treasury or paid therefrom except upon warrants issued by him; to have power to withhold the issuance of his said warrants in any circumstances deemed by him and/or on the advice of the Attorney General to be not in accordance with the law. He should be forbidden under definite provisions of law to receive or handle any of the State's money whatsoever, except in emergencies and provided that in such emergencies his conduct shall be prescribed by law, to include an immediate declaration under oath of the circumstances of the emergency. He should be designated by law the secretary of the Budget Committee, without vote, and in connection therewith to operate the necessary accounting system within his office to provide the Budget Committee with the necessary information from time to time to enable it to administer the budget, the said system to be organized and called the Division of the Budget. He should be appointed for a term of two years and serve until reappointed or until the appointment of his successor, in the manner herein described. He should receive a salary in such sum as may be fixed by the Legislature in the act creating his office. He should give a bond payable to the Governor through an acceptable bonding company in a reasonable sum.

For the purpose of removing the Auditor of State as far as possible from the influences of politics and constituting him an independent officer owing no political obligations, but situated, required and empowered to administer his office with respect solely to the provisions of the law, the Committee recommends that he be selected and appointed in a manner similar to that by which the presidents of the University, and the A. and M. College are selected, that is to say by a non-political board. It is recommended then that the Auditor of State be elected by the Board of Fiscal Advisers next herein to be described. It is the Committee's opinion that while other administrative departments should be subject to the executive authority of

the Governor with respect to their observance of the law, the Auditor of State should be free of such executive authority, except as it might be exercised with the consent of the Board of Fiscal Advisers.

For the purpose of effecting the reforms and improvements heretofore mentioned and for carrying out the detail of the work incident to such an extensive change, the Committee recommends the creation of a board to be called the Board of Fiscal Advisers, which should be composed of five members, reputable business men, citizens of the State of Texas who do not hold any other State office, who shall be appointed by the Governor with the advice and consent of the Senate for terms of office, at the beginning, one for two years, two for four years and two for six years, the regular term to be six years. A chairman shall be chosen from among its members and they shall have authority to employ a secretary. The members of said board to receive some such nominal compensation for attending meetings as is now paid to the Regents of the University of Texas with reimbursement for actual traveling expenses.

The object sought in the creation of this board is twofold. The first is to provide the machinery for working out in advance of their taking effect the details of the changes sought to be effected and the necessary preparation for the change, this first work being a temporary measure, and the second is to provide a permanent agency of government, uninfluenced by political considerations, charged with the duty of selecting the accounting officer to be known as Auditor of State.

The duties of such Board of Fiscal Advisers will be in general to meet upon the call of the Governor or upon the request of its chairman, or a majority of its members, to consider and advise the Governor upon the State's business affairs or make recommendations to him, to the Legislature, or to the Budget Committee upon matters pertaining to the State's financial position, its fiscal policies and other things relating to the business of the State government.

The said board should be empowered and directed to proceed with the establishment of the office of the Auditor of State, first causing to be made a complete survey of all existing State departments, institutions and offices having to do with the financial affairs of the State, ascertaining the present extent of their existing

systems, their accounting needs and their correlation to the fiscal structure to be created as hereinbefore described; a consideration of all the duties now resting upon them and their incumbent officers under the provisions of existing law. The board shall, upon the determination of all necessary facts both with respect to existing methods and the law applicable thereto, cause to be set up a complete structure of State finance to be represented in the books of the Auditor of State. The accounts and the system thus set up should, by the use of control accounts with the several departments, bring into the records and accounts of the central control office, all land notes, salable lands, leases and choses in action and all convertible and moveable assets of every kind and character whatsoever, belonging to the State, with provision for regular audit and examination by the Auditor of State of the offices having the direct custody, control or administration of such property in charge. In the setting up of this office and in the organization of its accounts there should be created a division devoted particularly to the accounting and presentation at stated intervals and for the use and guidance of the Budget Administration, data concerning appropriations, expenditures and incoming revenue, to be called the "Division of the Budget."

As a part of the preliminary work so to be done, and at the conclusion of the same, the Board of Fiscal Advisers should be required to prepare a report to the Governor and the Forty-second Legislature containing an outline of the new fiscal structure, setting out in detail the whole of the changes to be made from the present methods and systems to those proposed and arranged for. Included in such a report should be a showing of the changes necessary to be made in the statutes defining the duties of officers and making the proposed changes legally effective. This should point out the legislation necessary to give a legal status to, and provide with necessary powers, the Committee of the Budget, which this Committee recommends should be composed of the Governor, as ex officio chairman, the chairman of the Appropriations Committee of the House and the chairman of the Finance Committee of the Senate as members.

When and if the Forty-second Legislature shall have approved and enacted into law the recommendations of the Board of Fiscal Advisers, and if the said

recommendations and enactments provide for the creation of the office of Auditor of State and the selection, appointment and installation of such officer by the Board of Fiscal Advisers, it should be the duty of said board to thereupon meet and select such officer. Election in due form and the taking of the oath of office in such cases made and provided, all entered in the minutes of meetings of the said board, should constitute him an officer of the State with authority to enter upon and perform his duties, and it should be so provided by law. The board should then proceed to induct him into office and institute the budget system in accordance with the plans prepared and submitted, provided the Legislature authorizes the board so further to proceed. In the event of all this coming about, it should be the duty of the Board of Fiscal Advisers to meet thereafter regularly once every two years and select the said Auditor. The date of such meeting and selection should conform with the date of the beginning of the Governor's term.

The qualifications of the Auditor of State should be: That he be a citizen of the State of Texas, of good moral character, not less than 35 years of age, experienced in accounting and auditing and pursuing that avocation for not less than ten years next preceding his appointment, and having had charge as an executive head, for not less than five years next preceding his appointment, of an accounting office equal in size to that of the office of the Auditor of State, both as to the number of men working under his direction and the accounting requirements. He should be removable from office only by action of the Board of Fiscal Advisers at any time such removal may appear to the said board to be necessary to the best interests of the State.

The Budget and Budgetary Control.

A budget is an estimate of probable income against which there is set a fixed or contemplated sum of expenditure for a given period. A budget, however, is an inert and ineffective thing unless it is accompanied during the entire period for which it is set up, by the necessary supervision and accounting machinery to accomplish its objects. Commercial establishments operate budgets for purposes of gain. In the case of governments, the object is not gain, and, therefore, the estimated income on the one hand should not, under economical government, exceed the amount needed for

reasonable expenditure, and, conversely, expenditures should not exceed income, which will rarely be the case when there is an agency to prevent sight being lost of available revenues and of the possible fact that estimates of anticipated receipts upon which the Legislature has based its conclusions have not been reached.

The 287-page pamphlet laid on the desk of each Senator and Representative at the opening of the Legislature, compiled by the Board of Control and containing the details of proposed expenditure and an estimated statement of incoming revenue for the biennium, is called a budget. It is not. When the Legislature has passed the appropriation bills and the Governor has approved them, the body of the appropriations is by some called a budget. This also is not. When the Tax Board later meets, usually about the month of August, and the figures are brought in representing the indicated taxable valuations, etc., at sources tributary to general revenue and this applied, according to the formula prescribed by law, to the sum of the appropriations payable out of general revenue, etc., and the tax rate determined whereby revenue necessary to pay and extinguish the appropriations is calculated to be certain, and the fixed amount of the appropriated sums to be paid on the one hand, and the anticipated revenue to be received on the other, are resolved into a common figure, then it may be said there is a budget and that it is a balanced budget.

Public policy has always been to maintain a parity between income and expenditure, and the very obvious purpose of the law prescribing the procedure of the Tax Board is to that end. Those who devised this board method, which is entirely sound but far from new, probably thought that it settled the financial question fully and finally and that economical administration would or would not be evidenced thereafter according as the tax rate rose or fell. Without tracing its fluctuations from the enactment of this measure in 1907 to the present, it may be said that such fluctuations did not comprise a dependable barometer of the high pressure prevailing in State finance in the meantime. It has been the exception rather than the rule that the Treasury did not go on a deficiency.

A budget is balanced in the beginning, as has been described, that expenditure may not exceed income. Thereafter it will not run itself. It will not

stay balanced, and it will not operate nor produce results without systematic and the necessary accounts and personal control. Other and unforeseen factors intrude themselves into the equation. Storms, drouth, crop failures, pestilence and any one or more of a multitude of things may operate to reduce incoming revenue. It is impossible for the money-spending arm of the government (the Legislature and the Governor) to forecast such contingencies. There is not now and there never has been, unless by pure accident, a budget framed which was free of such contingencies or which worked itself out exactly as planned. The answer is: They must be flexible. No budget that is based on the one hand upon an estimate of income (as they all are) and tied down to a fixed and unchangeable program of expenditure can possibly succeed. Since it must be flexible, our trouble has been that no machinery nor constituted authority has been provided to bring the one side into conformity with the other at the proper time. The time to act upon a treasury deficiency or to avoid unpaid State obligations is before they happen.

Therefore there should be created a responsible agency of government charged with the administration of the budget and vested with the necessary authority to make reductions in the appropriations to such an extent and in such manner as will insure the maintenance of the equilibrium of the budget; that is to say, that the total expenditures for a given period shall not exceed the actually realized revenue or income. Conceivably, such an agency should be composed of elements drawn from the legislative and executive departments of the government, which had to do with the making of appropriations in the first instance. It is apparent that if the Legislature is to delegate authority to change its dispositions of public money, it would be fitting that such delegated authority be given to members of the two bodies, the Senate and the House of Representatives, to exercise such authority in collaboration with the Governor. In pursuance of this idea, it is suggested that the agency charged with the administration of the budget should be called the Budget Committee and that it should be composed of three persons, the chairman of the Appropriations Committee of the House of Representatives, the chairman of the Finance Committee of the Senate, and the Governor. Thus would be maintained the relative

proportion of power which currently exists between the two chambers and the Governor. Such a committee should be empowered to exercise control over the expenditures of all departments, offices and institutions of the State except the judicial and legislative departments. It should be empowered to reduce appropriations when incoming revenue appears to be insufficient to pay in full and in cash the sum of all the appropriations made by the Legislature, the said reductions provided to be made by an equitable process detailed and provided by law. The Governor should be ex officio chairman of the Budget Committee and thereby Director of the Budget.

The office of the Auditor of State herein recommended to be created should contain a subdivision to be known as the Division of the Budget, which will operate specially all the necessary accounting machinery and furnish the details of facts concerning the status of appropriations and income necessary for the guidance of the Budget Committee, and the Auditor of State should be ex officio secretary of the Budget Committee, without vote.

In urging the adoption of the budget system, the Committee assures the Legislature and the Governor that it invites Texas into no doubtful venture nor into untried fields of financial management. Other States have in the past and many do at the present suffer from the ills that now afflict Texas. Conspicuous among the States that, addressing themselves to the problem, have adopted the budget system with marked success are the State of North Carolina and the State of New Jersey.

We quote below from the message of Governor Angus W. McLean of North Carolina to the Legislature of that State in 1927, accompanying the budget for the ensuing biennium 1927-1929. The part quoted is worthy of your most careful consideration; it is, in fact, fairly a certificate of the success of just such a system of budget administration as this Committee urges you to put into operation in Texas.

"Mr. President, Mr. Speaker and Members of the General Assembly:

"It is a high privilege to present for your consideration the budget of the State of North Carolina in pursuance of the Executive Budget Act, covering the biennium beginning July 1, 1927. This act has been discussed in a general way in my biennial message; I shall first seek to give in some detail a report

of the actual functioning of the budget in the first period of its operation.

"The enactment of the Executive Budget Act committed the State government to the business principles which have crystallized from the experience of private enterprise. It made the Governor, as ex officio Director of the Budget, responsible for the conduct of the State's business in the manner of any other executive charged with the management of the affairs of a concern in which there is a general interest and ownership. As Director of the Budget, the Governor represents the people, but in a more particular sense is the fiscal agent of the General Assembly, to supervise and carry out the various projects and activities it has authorized. In controlling the expenditures of the appropriations within the maximum limits fixed by the General Assembly, the Governor is the executant of the legislative will to see that the moneys are spent as intended and when needed. He must see, also, that there is forthcoming the revenue provided by the General Assembly to meet the appropriations authorized.

"When these appropriations have been made, each spending agency in the State is required to submit to the Budget Bureau detailed estimates of the manner in which it plans to utilize the funds to which it is entitled. The estimates show the amount and the manner of distribution of contemplated expenditures according to a standard classification. In this way it is ascertained what each one of these numerous agencies proposes to spend during the biennium, the fiscal year, and each quarter of such year, for personal services, supplies, and projects. In addition, they show the revenues it is estimated they will collect. Thus, each department, institution and responsible bureau prepares a budget of its own operations, which it submits to the Budget Bureau for its approval.

"Along with the budget and estimate of the spending agency, there goes to the Budget Bureau a request for a quarterly allotment. When determined, this allotment establishes the limit of expenditure from the legislative appropriation for the ensuing quarter. In case of emergency need of additional funds, the necessity is met by special request to the Budget Bureau, which grants the increased expenditure in its discretion and if it is justified by the appropriation available.

"In order to supervise the operations of the departments and institutions, each is required to submit to the Budget

Bureau a monthly statement of its expenditures. These reports enable the Budget Bureau to compare actual expenditures with those authorized and to measure actual revenues with those previously estimated, and thus to assure that the spending agencies operate within their income. It can no longer happen, as formerly, that an institution is embarrassed by spending so much of its appropriation in the first few months of the year as to put it in straitened circumstances and invite a deficit.

"In brief, the Executive Budget Act and the measures supplementary thereto provide the means whereby the fiscal affairs of the State can be administered in an orderly manner and under definite responsibility and supervision.

"In operation the act has disproved the criticism that it would tend to take from department and institutional heads the power and authority to initiate and direct their own affairs. In fact, responsibility has been fixed and these officials enabled to see not only their own activities but those of the State as a great single operating unit, of which their departments and institutions are so many vital but interdependent branches.

"To this organization the Governor now realizes in fact the constitutional conception of Chief Executive. As Director of the Budget he may keep informed of what each State agency is doing, and what it requires. From this he gets the mental picture of the State as a whole which is necessary if he would serve its interest efficiently. In this great enterprise of the State, the people are the stockholders, the members of the General Assembly their voting trustees, the Governor the Chief Executive officer. The legislative branch is directly represented in a consultative and advisory capacity in the persons of the chairmen of the Appropriation and Finance Committees, the Senate and the House of Representatives.

"Operations for Current Biennium.

"The Executive Budget System was first operative in the period July 1, 1925, to June 30, 1926. Permit me to review briefly some of the outstanding results, citing for detailed results the budget statements numbered 1 to 15, inclusive, and attached to the budget report.

"Total appropriations by the General Assembly of 1925 for the year beginning July 1, 1925, and ending June 30, 1926, were \$12,983,678. The total budget revenues collected for that year

and available for the amount of the appropriations were \$12,972,183.97. It will therefore be seen that if the maximum appropriations authorized by the last General Assembly had been expended, there would have been a deficit on July 1, 1926, of \$11,494.03.

"Instead of expending the maximum amount authorized by the General Assembly of 1925, the sum was curtailed to a total of \$11,702,359.93 for the period, leaving in the State Treasury a cash balance of \$1,269,824.04 at the end of the fiscal year.

"It is interesting to note in this connection that the total expenditures for the year ended June 30, 1925, were \$12,587,958.50, or \$885,598.00 more than the total expenditures for the first year under the Budget System. Most of this credit balance on June 30, 1926, was the direct result of savings in expenditures. The sum of \$351,000.00 was due to the exercise by the Director of the Budget of the authority vested in him under the Executive Budget Act and the General Appropriation Act of 1925 of reducing the maximum appropriations authorized for the departments and institutions. These acts direct him to do this if it should appear that the total revenues collected during the fiscal year will be inadequate to pay the aggregate of the maximum appropriations authorized by the General Assembly, for the same period, or if the maximum appropriations are not necessary for the proper maintenance of any department or institution. Upon receipt of information from the Commissioner of Revenue containing an estimate of the revenues likely to be collected for the period, it appeared that the revenues would be insufficient to meet the maximum appropriations, and it further appeared that all the appropriations were not necessary for the proper and efficient operation of the departments and institutions, and therefore the director exercised the power vested in him by law to reduce the appropriations on the basis of five per cent, subject, however, to any needs that might develop later. Many of the departments and institutions, by the way, did not spend all of the amounts allotted to them after the five per cent reduction was made.

"The Director of the Budget kept in close touch with the departments and institutions and determined, from time to time, from their monthly statements and from direct investigation that there was no need for the allotment of additional funds.

"The Commissioner of Revenue made

his estimate upon the basis of the taxes estimated to be collected, including incomes, and necessarily, in estimating the taxes derived from incomes, took into consideration the then condition of the industries, including the cotton mills. The profits of manufacturing concerns during the second half of the year, used as the measure for computing the income taxes, improved considerably over the first half of the year, and it finally appeared that the estimate made by the Commissioner of Revenue was about \$500,000 lower than the actual amount subsequently collected.

"The Director of the Budget has given the needs of every department and institution careful consideration during the entire year, and no real need has been denied. In this connection, I may say that one of the principal purposes of the budget system is to have the Director of the Budget supervise the expenditures of the maximum appropriations made by the General Assembly, to see that the maximum amount authorized will not be spent by any department or institution unless it is really needed.

"The necessity for this supervision of the expenditures is manifest when it is remembered that the appropriations made by the General Assembly are made to cover a period of two years, beginning nearly six months after the General Assembly adjourns. A group of the best business executives in the country could not lay down a definite program of expenditures that far in advance, and hence large business concerns use the method of budgeting their appropriations over a fixed period and allocating the same to the various departments and branches of the business as maximum authorizations, with power in some executive at the head of the business to supervise the expenditures within the limits of the total authorizations.

"I will now mention some of the other results obtained in the operations of the Executive Budget System:

"Quite a large sum has been saved in interest, by reason of the fact that the practice of short-time borrowing in anticipation of collection of taxes has been all but eliminated.

"A large saving, amounting in the aggregate to approximately fifty per cent, has been effected in the item of public printing.

"A plan by which the State has been able to purchase office furniture and supplies in large quantities and to distribute the same to the various departments has saved a large sum, for the reason that the State in this manner

obtains the benefit of co-operative quantity buying.

"Another beneficial result arises out of the requirement inaugurated under the budget system that there must be for every purchase a requisition in writing signed by some duly authorized person, and a purchase order issued for each article purchased stating the character of the article and the terms of the purchase, thus fixing definite responsibility on the person who signs the requisition and purchase order, as well as making a permanent record of the transaction. This may appear to be a matter of small consequence, but when it is applied to a large number of purchases made by more than sixty agencies of the State government, its importance will be more fully appreciated.

"The effect of the budget system has been reflected in a remarkable way in the reduction of the per capita maintenance costs in some of the institutions. For example, in the case of the Caswell Training School the per capita cost for the year ending June 30 1925, was \$407.94 as against a per capita cost, for the first year under the budget system, of \$298.

"One of the most important results of the system is that governmental receipts and expenditures can be so carefully laid out that no substantial deficiency will occur at the end of the fiscal period, and thus a balanced budget can be maintained.

"A careful perusal of the budget statements and the exhibits attached to the budget report relating to the first completed fiscal year will convince that the result has been to create a supervising department of finance and to bring into one co-ordinated unit the operations of the more than sixty departments, institutions and other spending agencies of the State government.

"It is very gratifying to me that such satisfactory results have been obtained in the short period of time in which the system has been in operation. Like any other new piece of administrative machinery, it will undoubtedly work more smoothly and efficiently from year to year.

"One very strong argument in favor of the system is that it has never been abandoned wherever it has been installed in connection with either private or governmental business operations."

Further, and as an evidence of the practical success of the budget system and the swing that has taken place

toward intelligent financial control, we quote below a letter recently received by the chairman of this Committee from Mr. Henry B. Fernald, a certified public accountant of New York City, special budget assistant to the Governor of New Jersey, 1917-1924:

"Your letter of the 10th just received is of enough interest to me so that in spite of this very busy time I am, to some extent at least, trying to answer it.

"1. Avoidance of an Accumulative Deficiency.

"The original Budget Law in New Jersey provided for measuring the appropriations of one year against the estimated revenues of that year. This is one of the first things I got corrected by having this changed to a basis of funds available for appropriations. This calls for a formula:

Balance at first of year.....\$.....	
Estimated receipts for year.	

\$.....

Less—Outstanding appropri-	
ations at the beginning of	
the year	

Balance available for	
appropriations\$.....	

"To see the working out of this, it is necessary to understand that appropriations which the Legislature makes, for example, in the spring of 1928, are for the fiscal year from July 1, 1928, to June 30, 1929. Accordingly, it is necessary first to take the actual condition at June 30, 1927, with estimated receipts and actual appropriations for the fiscal year ended June 30, 1928, to get the estimated balance for the fiscal year beginning July 1, 1928.

"You will note that the so-called 1929 budget, of which I have sent you a copy, imperfectly works this out because of the way it is there set up. On pages 364 and 365 is given the estimated receipts for the next year. It shows an expected cash balance in the treasury at June 30, 1928, of \$1,457,441.06 after taking into account all appropriations for the fiscal year 1928, plus all prior outstanding requisitions. It then estimates that the receipts for the ensuing fiscal year ended June 30, 1929, will be equal to the estimated receipts for the year ended June 30, 1928, as there stated, viz., \$20,852,880. You will note that the Governor's Message, page V, states his recommenda-

tions to be \$1,626.65 less than the Comptroller's estimate. Unfortunately, the budget itself does not give the detailed computations to reconcile the figures in the Governor's Message with the Comptroller's statement. Such a reconciliation has to take into account the difference between the amounts which the Comptroller estimates as receipts from special funds and the appropriations made or recommended from such funds for future years. For example, the expenses of the Motor Vehicle Department are paid from motor vehicle fees. Manifestly, the amount of motor vehicle fees turned into the general treasury for payment of one year's motor vehicle expenses is not going to agree with the appropriations to be made for an ensuing year. The same applies to a greater or less extent to all the other special sources listed on page V-1. The special provisions of law governing each of these cases of dedication of receipts to some specific purpose are not easy to summarize, although they have to be all fully taken into account in preparing the detailed figures. The detailed computations are available to the Legislature in the Budget Office of the Comptroller's Office, but a satisfactory form for including them in the printed budget has not yet been agreed upon, as I think it should be and in time will be done.

"The main point, however, is that the New Jersey Budget works on a basis of balance of available funds, so that automatically the amount of any deficiency in one year must be made good before stating the amount which will be available for next year's appropriations.

"I might say that I do not remember any year in which there was an actual deficiency thus to be made good. There is always an outstanding leeway of unexpended appropriations. There were times when we took advantage of this to cancel prior unexpended balances in order to make appropriations which seemed more necessary for the future. The department heads themselves were often very glad to have some of these old balances cancelled in order to give something they more particularly desired for the future. Of course, this only applies to actually unrequisioned funds, but bearing in mind that the appropriations for one year are made some months before the expiration of the prior fiscal year, it is manifest that much can be done towards allowing these prior appropriations to lapse in

order to get a more desirable future appropriation.

"The real point, however, is that the Comptroller's estimates are always made on a very conservative basis and revenues are generally considerably in excess of the amount which the Comptroller has estimated.

"I need hardly point out to you how this tendency is encouraged by the accumulative basis which will make any deficiency for one year automatically reduce the amount available for appropriation in the ensuing year.

"2. Power to Reduce Appropriations.

"In New Jersey this is lodged in the hands of the Comptroller. The New Jersey Constitution recognizes the State Comptroller as the creature of the Legislature, elected by it and reporting to it. Each appropriation bill gives the Comptroller the right to reduce appropriations if revenues are not available therefor. It is a large power which I do not think has been abused, nor do I think there is much danger that under the New Jersey system it would be abused. You know that there are always a lot of appropriations made which, although justifiable, are not to be considered of immediate and primary importance. A reasonable exercise of the Comptroller's powers as to such appropriations will usually be found to give all the leeway which is required.

"The simple fact that the estimates and reports of the Comptroller (the representative of the Legislature) are subject to review by the budget department (representative of the Governor) and that a deficiency of any year is going to be reflected in the estimates of the succeeding year and that any arbitrary action by the Comptroller is going to be a subject of budget publicity, goes a long way to cover the situation to which you refer.

"3. Pre-Audit of Requisitions.

"While departments are at liberty to encumber their appropriations to the last penny, they can only do this when and as requisitions are filed with the Comptroller and approved by him. The Comptroller has no authority to disapprove requisitions merely because he does not like the way it is proposed to spend money, but he has authority to disapprove requisitions if either (1) they are not proper expenditures under an existing appropriation, or (2) if he sees a deficiency in available funds such that the appropriation made will not actually be available.

"4. Payment of Warrants.

"The New Jersey system is definitely intended to make all State warrants immediately convertible into cash. No warrants are issued until they are approved by the Comptroller and signed by the Treasurer as definite drafts on cash balances available. There may be question as to whether contracts or orders by various State Departments are proper so that any obligations which they set forth will be promptly payable in cash. It is impossible to avoid having this question arise because actions taken by government officials are necessarily subject to the test as to whether or not they are in full accord with the provisions of the law, but we hold that whatever question of this kind may arise there should never be any question as to the State promptly making good on all cash warrants which it issues.

"I have felt very strongly on this from the plain business point of view. We can brush aside any question of moral obligation and simply say that the State cannot expect to conduct its business economically unless it is known that it will promptly pay its bills when due. This principle applies to the State just as much as to an individual or business.

"I cannot try to go more at length into these matters nor to expand on why we worked out as we did work them out in New Jersey. My only reason for writing you as I have is to indicate how strongly I feel that you have put your finger on the essential point, which is to get a practical control of the State finances. Each point you mention is a definite one which needs to be met and which we have proved in New Jersey could be met in some simple sensible manner without requiring any general over-turn of the existing financial system."

The Committee acknowledges valuable counsel and assistance from this distinguished authority on State finances.

It will be observed, by a comparison of the two documents quoted above, that the North Carolina system differs slightly from that of New Jersey and that difference is apparently only in respect to the officer in which is reposed the power and discretion to reduce appropriations when deemed necessary. In North Carolina, this power rests with the Governor by the term of their Executive Budget Act, and also by the appropriation acts of the Legis-

lature. In this connection, it would appear that their Legislature is represented in an advisory and consultative capacity by the chairman of the Senate Finance Committee and the House Appropriations Committee respectively. It is not clear that these chairmen have any voice other than as consultants. This may, and probably does, assure decision and the avoidance of bickering and delay.

In New Jersey, the power to reduce appropriations is in the hands of a representative of the Legislature called the Comptroller, an officer elected by it and reporting to it. It should be borne in mind that whatever may be the scope of his duties beyond those appertaining to budget administration, there is no similarity between that officer and the Texas Comptroller of Public Accounts, and this Committee is of the opinion that no success whatever can be attained by attempting to make a budget officer of our Comptroller of Public Accounts, or by vesting in him any power or discretion to reduce appropriations. Obviously, that power ought to attach to some one having to do with the making of the appropriations in the first instance—either the Governor alone or the Governor joined by a representative of each house of the Legislature.

The outstanding feature of each of the descriptions of budget operation above given, is that there is in each State a constituted authority vested with the power to reduce appropriations when necessary, and that the ruling idea is to hold expenditure within the limits of actually realized income.

Under the Texas system as it operates at the present time, a legislative appropriation is a fixed and unchangeable thing, and it is subject to the limitation cited below, good until spent whether in the current fiscal year or a succeeding one, provided the encumbrance is contractually made within the period to which the appropriation applies. For example, equipment for an institution or a department may be purchased upon the remaining balance of any appropriation for that purpose on the last day of the fiscal year for which the appropriation was made, and even though the equipment so bought may not be received by the State for a year, or two years, or even more, the purchase will be, according to current practice, payable out of that prior year's appropriation.

Concerning the procedure related above concerning the disbursement of

appropriated funds, we quote Section 6, Article 8, of the Constitution of Texas which reads as follows:

"No money shall be drawn from the Treasury but in pursuance of specific appropriations made by law; nor shall any appropriation of money be made for a longer term than two years, except by the first Legislature to assemble under this Constitution, which may make the necessary appropriations to carry on the government until the assemblage of the Sixteenth Legislature."

Thus it will be seen that there is a limitation upon the time in which the whole or any part of appropriated money may be paid out after the close of the fiscal year to which it belongs. The Committee does not believe that it can be denied that this provision of the Constitution applies to the disbursement of appropriated funds beyond two years after the close of any given year for which they were appropriated. The report of the Comptroller of Public Accounts for the fiscal year ending August 31, 1925, is the latest document from that office which this Committee has before it. Reference to page 10 of that report will disclose Table No. 5 which is a "Summary Showing Purposes for Which General Revenue Fund Warrants Were Drawn by the Comptroller on the Treasurer from September 1, 1924, to September 1, 1925." This table shows that warrants were drawn by the Comptroller during the fiscal year indicated against appropriations as far back as 1919, and including the years 1921, and 1922. The payments against appropriations of 1923 amounting to \$444,967.38 are assumed to have been within the two-year limit.

This Committee finds it to be the practice in some departments it has had opportunity in part to survey, that the departments purchase or contract for, very assuredly, before the close of a given year, the whole of any and all their appropriations for that year. In discussing this matter with institutional or departmental authorities there have been no positive admissions, but very pointed suggestions that they think they had better take a crack at the Treasury to the uttermost farthing while they have a chance, whether they actually and presently need the things purchased or not. Deplorable as it is, and particularly so when there is a deficiency at the Treasury, this is but the natural result of the absence of budgetary control. We simply set up the appropriations to be shot at according to the judgment of the interested departmental

heads and thereafter accord the appropriation no managerial attention whatever. Unused appropriations reverting to the Treasury, the Committee has found, are negligible and it is our information that the practice just described is common throughout the most, if not all, of the State establishments. The State Highway Department, we know, is an exception.

In this connection, it is particularly pointed out that each of the documents above quoted show with what success this sort of unnecessary spending has been overcome, and that it has operated to the satisfaction as well as to the benefit of the departments concerned.

This Committee does not think it necessary to burden this report with the details of a budget accounting structure. It will probably be sufficient to say that, among other things, it calls for the setting up therein:

(a) The cash balance in the Treasury and other available resources at the beginning of the fiscal year;

(b) The estimates of anticipated revenue and other income at the beginning of the fiscal year, for the fiscal year;

(c) The unpaid obligations, if any, of the previous fiscal year, to be paid from the estimated income of the current fiscal year;

(d) The appropriations to be paid therefrom during the fiscal year;

(e) The encumbrances currently to be entered, which is to say, purchases and other commitments payable out of appropriations.

And in connection with this:

(f) The rules of procedure by which each of the State departments and institutions shall be required, in advance of the beginning of each quarter year, to apply for authority to spend such portion of their appropriations as may be needed for such quarter year;

(g) The issuance of expenditure authorizations by the Budget Administration (of which the Auditor of State is to be the auditing and accounting officer) for the sums granted upon such applications, and thereupon the charging of it against the appropriation; the said authorization being likewise set up as a credit to the department (or institution), thereby fixing a limit to the department's expenditure;

(h) The necessary accounting procedure by which the actual incoming revenue will be applied monthly to the estimated sum, to show the unrealized remainder;

(i) The necessary accounting procedure by which the sums spent will be

applied to the appropriations, both in detail and by control account totals, to show the unexpended portion thereof—

All of which will co-ordinate, keep the Budget Administration advised at the end of each month of the approximate financial position of the State and enable it to control the State finances in the manner described.

The processes of budget operation are fundamental, and successful budgets in operation everywhere are therefore fundamentally the same, regardless of minor variations arising out of local conditions or special points of public policy. While urging the institution of the budget system, this Committee makes no contention for the adoption of any particular State's system, and it will be content with any adopted by the Legislature, so it is thorough and effectively provides the improvements of which the State is so greatly in need.

The Authority and Responsibility of the Governor.

In the last analysis, the State's financial management should be in the hands of the Governor, within the law and subject to the legislative will. This Committee has no thought of a Governor in any degree empowered to override the law or sound public policy, nor does it think that one so disposed is likely in the future to occupy the office in Texas.

The Governor bears, in the public mind, the responsibility of all the State's financing—good, bad and indifferent; that which does and that which does not make itself felt in the taxpayer's purse. It is not infrequently that we have seen an incumbent Governor claiming credit for having accomplished great things in the handling of the State's financial affairs, and quoting, with much assurance, figures to prove his good management. Such a responsibility a Texas Governor ought in reality to have, but, in all fairness, has not. The truth of the matter is, he has practically nothing to do with it all beyond approving or vetoing the legislative appropriation bills and later usually issuing some deficiency appropriations. After that the thing runs itself—and with what results? The divided responsibility and the state of utter confusion which is the natural consequence is such that the quoting of Treasury figures is not only doubtful evidence of good or bad stewardship, but often is plainly and absurdly ludicrous. Even the fixing of the tax rate, often made the subject of much discussion and many claims for credit even by members

of the Tax Board other than the Governor, is, as it should be, an absolutely formal proceeding, stripped bare of every element of executive discretion and absolutely nailed down to a statutory formula.

This being the case (and the Committee thinks it cannot but be found true by the most superficial inquiry), the Governor's office ought to have its executive powers and responsibilities broadened to make the position of chief executive real and definite rather than imaginary and indefinite. This Committee has set out at some length the proposal for a budget system to be administered by the Governor. There is another side to be cared for. Predominant authority in the Governor over all the administrative departments should be established for the principal purpose of fixing definite responsibility upon the Governor for the entire financial management of the State. The Committee believes this can be accomplished by statutory enactments and without resort to constitutional amendment. The practical necessity of such a position for the Governor is evidenced in part by the following:

The Governor being the executant of the legislative will, charged with the control of expenditure within the limits of income, should by the same token be charged with the duty and power to enforce the revenue-producing measures and compel diligence and efficiency in the collection of the State's revenue and the bringing of it into the Treasury. This would mean the pressure of executive authority upon the tax-collecting activities of the Comptroller of Public Accounts, and others.

Conceivably it should be the duty and within the power of the Governor to conserve and protect the permanent school funds, and there should be no barrier between the Governor and the Commissioner of the General Land Office or any other department having to do with the collection of the money allocable by law to the schools. Hence the Governor's duty and power to inquire into or examine, or compel the furnishing of information and for the observance of the law by this department should be unquestioned.

The safekeeping and the proper disposition of funds coming into the Treasury from these and all other sources; the soundness and sufficiency of security on all funds placed in depository banks; the collection of interest thereon; the complete accounting for the return of

the principal of such funds, are all proper subjects of inquiry and executive action and such duty and power should be placed upon the Governor to make any investigation of the Treasury deemed necessary at any time, and he should be given power to enforce the law relating thereto in such manner as will avoid expense and delay.

The arrangements made by the Treasurer with depository banks for the carrying by them of State warrants at time of threatened deficiencies, concerning which we read so much in the public prints, should in no case be made without all the conditions incident thereto being submitted to the Governor, so that it may be determined whether or not banks rendering such a service receive compensation, and if so, whether direct or indirect, and in either case, by what grant of authority such a thing may be done. And in no case should such an arrangement be made without the approval of the Governor. (Under the budget system the excuse for such arrangements will disappear.)

In all such matters, the non-political Auditor of State, whose creation this Committee has recommended, will serve as an effective agent of the Governor.

With these considerations before it, the Committee again states its belief that the Governor's authority should be definitely broadened and that such action should be begun at once.

It should be borne in mind that the work of the Board of Fiscal Advisers herein recommended to survey the accounting needs of the State will in fact be a survey leading to and making possible the co-ordination of all State departments and the elimination of duplications of effort and expense and the breaking down of barriers to the executive authority, and it should be so provided in the creation of that board or any similar one created for that purpose.

In Conclusion.

Texas is too great a State to longer run its business in the disconnected fashion of the past. Nothing is too good for Texas. A petty State, having little to care for, may well afford to have its finances, or what may be called its finances, submerged in confusion, but a great commonwealth loses much of its dignity and strength when it cannot administer its affairs in a clear and methodical way and at once give account to all who may be concerned of the processes by which its financial wholeness and the wholeness and the in-

terests of its taxpaying citizens are presently assured.

We have the honor to remain,

Very faithfully yours,

GEO. ARMISTEAD,

Chairman;

S. H. SANDERS.

CLIFTON H. MORRIS.

Members of the Committee.

RELATIVE TO HEIRS OF EDWARD T. WINGATE.

Mr. Young offered the following resolution:

H. C. R. No. 6, Relative to heirs of Edward T. Wingate.

Whereas, Edward (T.) Wingate was an enlisted soldier in the war of Independence between Texas and Mexico; and

Whereas, The State of Texas has at various times issued tracts of land to the heirs of the said Edward (T.) Wingate; and

Whereas, It now appears that perhaps parties who were not the real heirs of the said Edward (T.) Wingate secured this land and the real heirs of the said Edward (T.) Wingate have never received anything by way of grants from the State of Texas; and now, be it

Resolved by the Legislature of the State of Texas:

Section 1. That the Attorney General of the State of Texas make a careful investigation into this matter and if, after said investigation, he is of the opinion that the law and facts warrant it, he is hereby instructed to file such suit or suits as he may deem necessary by and on behalf of the State of Texas for the recovery of said lands.

Sec. 2. Authority is hereby given to the real heirs of Edward (T.) Wingate that they have the right to intervene in said suit and have his or her rights decreed and established in said suit or suits by a judgment or judgments of said court or courts.

Signed—Young, Rountree, Van Zandt, Waddell, Shaver, Justiss, Ray, Hefley, Long of Houston, Palmer.

The resolution was read second time and was adopted.

INVITATION TO ATTEND "SENIOR SWING-OUT."

The Speaker laid before the House and had read the following invitation:

The University of Texas,
Office of the Dean of Women.

Austin, May 9, 1929.

To the Clerk of the House of Representatives:

Will you please read this invitation to the House?

The Senior Class of the University of Texas invites the members of the House of Representatives and their families to attend the Senior Swing-out, Friday, May 10, at 6:30 o'clock, on the University campus in front of the Main Building.

This ceremony is traditional with the Seniors and is the culminating event of Senior week.

CORNELIA GREGORY,
President Cap and Gown.

RELATIVE TO PLACING LIGHTS ON CAPITOL GROUNDS.

Mr. Richardson offered the following resolution:

Whereas, The State of Texas has the best appointed and most beautiful State Capitol in the United States; and

Whereas, The Texas State Capitol is surrounded by a park noted for its beauty and attractiveness, both the Capitol and this park appealing to the pride of every patriotic citizen of Texas; and

Whereas, Many citizens of the State avail themselves of the opportunity to inspect the Capitol building while visiting Austin on holidays and Sundays, it is both desirable and necessary that the building be adequately lighted; therefore, be it

Resolved by the Legislature of the State of Texas:

Section 1. That the Board of Control be and it is hereby authorized to cause the State Capitol Park to be so illuminated as to properly light every portion of the grounds, to the end that recreation for the women and children of Texas, who may visit here during the torrid summer nights, may be made both safe and delightful, and that the Board of Control also be authorized to provide at least one thousand seats properly distributed over the grounds.

Sec. 2. That the Board of Control be and it is hereby directed to keep the corridors of the Capitol lighted during the usual hours every day in the year, including holidays and Sundays, and the elevators to be operated every day of the year, including holidays and Sundays.

The resolution was read second time.

Mr. Coltrin offered the following amendment to the resolution:

Amend resolution by changing "one thousand seats" to "seats for five hundred."

The amendment was adopted.

Question then recurring on the resolution, it was lost.

COMMITTEE IN REGARD TO EMPLOYEES' PICTURE.

The Speaker announced the appointment of the following committee in regard to employees' picture: Messrs. Albritton, Bateman and Quinn.

ADJOURNMENT.

On motion of Mr. Woodall, the House, at 4:15 o'clock p. m., adjourned until 10 o'clock a. m. next Monday.

APPENDIX.

STANDING COMMITTEE REPORTS.

The following committees have today filed favorable reports on bills as follows:

Judicial Districts: Senate bills Nos. 5, 54 and 8.

Appropriations: Senate bill No. 34.

Highways and Motor Traffic: House bills Nos. 101, 188, 203 and 154.

Agriculture: House bill No. 184.

Banks and Banking: Senate bills Nos. 49, 48 and 50.

Game and Fisheries: House bills Nos. 193, 196, 197, 119 and 194; Senate bills Nos. 39 and 1.

Education: Senate bills Nos. 18, 62, 19, 100 and 21; House bills Nos. 1, 8, 23, 186, 4, 48, 15 and 185.

Conservation and Reclamation: House bills Nos. 143 and 195; Senate bills Nos. 26, 24 and 25.

Public Health: House bills Nos. 140 and 139.

Live Stock and Stock Raising: House bill No. 180.

Public Lands and Buildings: Senate bill No. 44 and House bill No. 209.

Claims and Accounts: Senate bill No. 81.

Counties: House bills Nos. 190, 169, 183, 182, 181 and 163.

The Committee on State Affairs filed an unfavorable report on House bill No. 150.

REPORTS OF THE COMMITTEE ON ENGROSSED BILLS.

Committee Room,
Austin, Texas, May 8, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 55, A bill to be entitled "An Act to amend Article 7414 of the Revised Civil Statutes of 1925, and declaring an emergency,"

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room,
Austin, Texas, May 8, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 38, A bill to be entitled "An Act to require the district and county clerks, the clerks of the Courts of Civil Appeals, the Court of Criminal Appeals, the clerk of the Supreme Court and the Secretary of State to make annual reports as to the transactions of the courts of this State,"

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room,
Austin, Texas, May 10, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 167, A bill to be entitled "An Act amending Chapter 258, page 534, of the Regular Session Acts of the Forty-first Legislature, prohibiting the sale of fresh water fish during the months of March and April in Cass, Bowie, Morris and Titus counties; providing a penalty therefor, and declaring an emergency,"

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room,
Austin, Texas, May 10, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 168, A bill to be entitled "An Act fixing the fees and compensation of county attorneys in counties having a population of not less than

37,500 nor more than 100,000 inhabitants, and in which counties there are one or more judicial districts, and which have no district attorney; authorizing the employment of deputies, assistants and stenographers to such county attorneys, and fixing the compensation for same; providing a method for the payment thereof; and providing that such county attorneys may collect fees for services rendered in corporation courts, specifying such fees, and declaring an emergency."

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room.

Austin, Texas, May 10, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 101, A bill to be entitled "An Act creating a more efficient road system for McMullen county, Texas; providing that the county commissioners shall co-operate with the State Highway Department in the establishment, construction and maintenance of designated State highways, to be paid for partly by the county and partly by the State or Federal government; authorizing the commissioners court of McMullen county to issue bonds of said county for the purpose of funding or refunding indebtedness incurred for road and bridge purposes, and to levy a tax in payment thereof; providing that this act shall be cumulative of all road laws of said county, and declaring an emergency."

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room.

Austin, Texas, May 8, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 94, A bill to be entitled "An Act relating to banks and bank and trust companies; amending Article 365, Revised Civil Statutes of Texas of 1925, so as to provide for the sale of stock to enforce payment of stock assessments in banks and bank and trust companies; amending Article 370 of said statutes defining the duties and discretion of the Banking Commissioner in connection with taking charge of and liquidating banks and bank and trust companies;

enacting provisions protecting the rights of creditors of banks and bank and trust companies in cases of decrease of the capital stock of such corporations; declaring the rule where banks or bank and trust companies receive checks, drafts or bills of exchange; amending Article 514, Revised Civil Statutes of 1925, so as to eliminate that portion of same which prohibits banks and bank and trust companies from alienating real estate to anyone interested directly or indirectly in said company; amending Article 358, Revised Civil Statutes of 1925, prescribing the number of examinations per year of banks and bank and trust companies by the Banking Department; amending Article 350, Revised Civil Statutes, 1925, as amended, so as to provide for assistant bank examiners, and prescribing their compensation and traveling expenses; enacting provisions incidental to the subject and purposes of the act, and declaring an emergency."

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

Committee Room,

Austin, Texas, May 9, 1929.

Hon. W. S. Barron, Speaker of the House of Representatives.

Sir: Your Committee on Engrossed Bills, to whom was referred

H. B. No. 91, A bill to be entitled "An Act relating to banks and bank and trust companies; enacting provisions to prevent false advertisement of the condition of banks and bank and trust companies, and providing penalties and forfeiture, and declaring an emergency."

Has carefully compared same and find it correctly engrossed.

McCOMBS, Chairman.

FIFTEENTH DAY.

(Monday, May 13, 1929.)

The House met at 10 o'clock a. m., pursuant to adjournment, and was called to order by Speaker Barron.

The roll was called and the following members were present:

Mr. Speaker.	Bond.
Acker.	Bounds.
Ackerman.	Bradley.
Albritton.	Brice.
Baker.	Brooks.
Baldwin.	Carpenter.
Barnett.	Chastain.
Bateman.	Coltrin.
Beck.	Conway.